





Class JK 176

Book 1832







THE  
VIRGINIA AND KENTUCKY RESOLUTIONS

OF  
1798 AND '99;

WITH  
JEFFERSON'S ORIGINAL DRAUGHT  
THEREOF.

ALSO,  
MADISON'S REPORT,  
Calhoun's Address,

RESOLUTIONS OF THE SEVERAL STATES IN RELATION  
TO  
STATE RIGHTS.

WITH OTHER DOCUMENTS IN SUPPORT OF  
THE JEFFERSONIAN DOCTRINES OF '98.

---

"LIBERTY—THE CONSTITUTION—UNION."

---



PUBLISHED BY JONATHAN ELLIOT.

---

Washington:

MAY, MDCCCXXII.

J1111  
1802

## PREFACE.

---

*The celebrated Resolutions of Virginia and Kentucky of '98 and '99, and Madison's Report on the former, being nearly out of print, a new edition of these invaluable state papers will doubtless be acceptable to the American people. These documents embody the principles of the old Republicans of the Jeffersonian school, the genuine disciples of the Whigs of '76. They were promulgated at a time when the encroachments of the Federal Government on the rights "reserved to the States and to the People," threatened to break down all the landmarks of the constitution, and to destroy the liberties of the country. These principles fearlessly advanced and nobly maintained by Thomas Jefferson and his compatriots during "the reign of terror," effected a political revolution which restored the public liberty—in the emphatic language of Mr Jefferson, "saved the constitution even at its last gasp"—and thereby preserved the Union itself, bringing back, at the same time, the administration of the Government, to the purity and simplicity from which it had so widely departed.*

*In bringing these important state papers to the view of the public, we have deemed it advisable to present, in connexion with them, the late able Address of Mr Calhoun, Vice President of the United States, in relation to the true principles of the constitution and the rights of the States: to which we have also added the Resolutions adopted at various periods, by the different States of the Union, and the opinions of several of our most distinguished public men on these vitally important questions. These documents shed a broad and clear light on this subject, which will remove from the mind of the candid enquirer after truth every doubt as to the true theory of the constitution—the "boundaries of jurisdiction" between the Federal and State Governments—the rights of the States, and the conservative principles of our political system. The recently discovered manuscript containing the original draught of the Kentucky Resolutions, in the hand writing of Mr Jefferson, will be found in this collection. The preservation of so interesting a document in a more permanent form than the columns of a newspaper would, of itself, be of sufficient importance to justify this publication, which is submitted to the people of the United States, in the hope, that it may—by diffusing correct information on the great questions embraced in it—so enlighten the public mind, as to enable us to transmit our free institutions unimpaired to the latest posterity.*

*City of Washington, May 1, 1832.*

# TABLE OF CONTENTS.

	Page.
<i>Virginia Resolutions of '98,.....</i>	5
<i>Address to the People, accompanying the same, .....</i>	6
<i>Answers to the Resolutions of '98, by the States of—</i>	
<i>Delaware,.....</i>	9
<i>Massachusetts, .....</i>	10
<i>New York, .....</i>	13
<i>Connecticut, .....</i>	14
<i>New Hampshire, . id.</i>	
<i>Vermont, .....</i>	15
<i>Kentucky Resolutions of '98,.....</i>	15
<i>“ “ ‘99,.....</i>	19
<i>Mr Madison's Report, ... ..</i>	21
<i>Mr Calhoun's Address. ....</i>	41
<i>Mr Jefferson's original draught of</i>	
<i>Kentucky Resolutions,.....</i>	57 to 61
<i>Mr Jefferson's Letter to Mr Giles, 66</i>	
<i>Protest, Jefferson's, for Virginia Le-</i>	
<i>gislature. ....</i>	66
<i>Chief Justice Marshall, Speech in case</i>	
<i>of Jonathan Robbins, .....</i>	68
<i>State Interposition, .....</i>	id.
<i>Calhoun, Mr, his opinions quoted, 69</i>	
<i>Notification, origin of the term,....</i>	id.
<i>Rights, resolutions in relation thereto, by</i>	
<i>Pennsylvania, ..... 74 to 76</i>	
<i>Virginia, ..... id.</i>	
<i>Georgia, ... .. 77</i>	
<i>South Carolina, ..... 77</i>	
<i>North Carolina, ..... 79</i>	
<i>Massachusetts,.....</i>	79
<i>Maine, .....79 to 80</i>	
<i>Ohio, ..... id.</i>	
<i>New York.....</i>	81
<i>Extracts from the Federalist, .....</i>	81 to 82

## INDEX.

A	Page.		Page
Acquiescence of the States under infrac-		Constitution, preamble to, the true meaning	
tions of Constitution, effects of .....	7	thereof.....	7
Address to the people, accompanying the		Constitution, a league or treaty between the	
<i>Virginia Resolutions. ....</i>	6	States.....	71
<i>Alien Law unconstitutional.....</i>	26	Consolidation leads to monarchy.....	9
<i>Alabama Resolutions as to State Rights.....</i>	78	Convention of the States the only tribunal	
<i>Answers to Virginia Resolution, of—</i>		to decide controversies between the States... 66	
<i>Delaware.....</i>	9	Courts, federal, not final arbiters.....	70 71
<i>Rhode Island.....</i>	9	“ State, rights of.....	id.
<i>Massachusetts.....</i>	10		
<i>New York.....</i>	13	D	
<i>Connecticut.....</i>	14	Delaware, answer of, to Virginia Resolu-	
<i>New Hampshire. ....</i>	id.	tions.....	9
<i>Vermont.....</i>	15	F	
C		Federal Government—	
Calhoun's Address.....	41	“ “ founded on compact	
“ concurs in the doctrines of Virginia		between the States.....	5
and Kentucky Resolutions. ....	id.	“ “ cannot be maintained	
Cartwright, Jefferson's letters to on charac-		without co-operation.....	7
ter of our government.....	65	Federalist, extracts from.....	81 82
Channing, Doctor, his opinion.....	73	Franklin, Doctor, his opinions.....	73
Cobbett's case.....	71	Free Trade, Franklin and Channing on.....	73
Compact Constitutional, each party has an		G	
equal right to judge of infractions, and		Georgia Resolutions as to State Rights.....	77
mode and measure of redress.....	16	General Government not “the exclusive judge	
Construction, fatal effects of a liberal one....	7 8	of the extent of its own powers”.....	20
Connecticut, answer of, to Virginia Resolu-		—“ this doctrine stops nothing short of des-	
tions .....	14	potism”.....	id.
Constitution, a compact to which the States		—“ substitutes discretion of rulers for the	
are parties.....	5	Constitution”.....	id.
		Giles, William B., Jefferson's letters to.....	66



# INDEX.

I J K	Page.	S	Page.
Imposts and taxes harass the laborer.....	7	Sedition Law unconstitutional.....	6 25 30
Interposition State—right and duty of.....	22	State interposition.....	68
“ “ object of the Constitution.....	23	State Sovereignty unimpaired by Federal Constitution.....	7 69
“ “ cases to which applicable.....	id.	State Government not subordinate to Federal.....	65
Internal improvements, unconstitutional.....	66 67	“ “ has exclusive jurisdiction of domestic affairs.....	66
Jefferson the author of the Kentucky Resol.'s	57	States, right of to judge of unconstitutional Laws.....	5 20
“ “ opinions.....	65 66	“ “ right to interpose.....	id.
Jefferson's original draught thereof.....	57 60	“ “ duty to arrest progress of usurpation.....	id.
Judiciary federal claimed to be “the final arbiters”.....	9 15	“ “ to maintain their authority in their limits.....	id.
“ “ denied to be the arbiters by Mr Madison.....	24	“ “ the States formed the Constitution.....	22
“ “ do by Mr Jefferson.....	70	“ “ no common umpire.....	id.
“ “ do by Mr Calhoun.....	47	“ “ no tribunal superior to their authority.....	id.
“ “ do by Va. and Kentucky.....	71	“ “ the rightful judges, must decide for themselves.....	27
“ “ do by Ch. Justice McKean.....	72	“ “ every State has a right to nullify of their own authority in cases not within the compact.....	59
“ “ do by Judge Roane.....	69	“ “ each State to take measures of its own for that purpose.....	60
“ “ do by Ch. Justice Tlghman.....	80	State Rights (continued) Resolutions in relation thereto of Pennsylvania.....	74 75
“ “ do by State of Ohio.....	80	“ “ Virginia.....	76
“ “ do by Ch. Justice Marshall.....	66	“ “ Georgia.....	77
Kentucky Resolutions of '98.....	15	“ “ South Carolina.....	id. 78
“ “ do of '99.....	19	“ “ Alabama.....	78
L M N		“ “ North Carolina.....	79
Legislatures of States bound to preserve line of partition unimpaired.....	79	“ “ Massachusetts.....	79
Madison's Report.....	21	“ “ Mississippi.....	79
Maine assertion by, of State Rights.....	79 80	“ “ Maine.....	79 80
Majority and minority, rights and duties of.....	72	“ “ Ohio.....	80
Manufactures, power to promote, claimed by Hamilton.....	25	“ “ New York.....	81
“ “ denied by Madison.....	25	Submission to government without limitation of powers greatest of evils.....	67
“ Power to “regulate Commerce” does not embrace manufactures.....	66	Sumter, Gen. his opinions.....	73
Monarchy consolidation leads to.....	5	South Carolina, Protest of.....	68
“ “ distributing emoluments leads to.....	8	“ “ her State Right doctrines.....	77 78
Marshall Chief Justice on jurisdiction of Federal Courts.....	68	“ “ right in tracing “nullification” to Mr Jefferson.....	57
“ “ these Courts possess no political power.....	id.	T U V	
Massachusetts answer of, to Virginia Resolutions.....	10	Tilghman C. I. opinion in Olmstead's case... 69	
“ “ assertion by, of State Rights.....	79	Tribunitial power at Rome, an absolute veto. 82	
Mississippi Resolutions against the Tariff.....	79	Umpire, no common umpire between the States.....	66
McKean's C. J.'s opinion.....	71	Unconstitutional Acts void.....	5
New Hampshire answer by, to Virginia Resolutions.....	14	Usurpation, federal duty of the States to arrest the progress of.....	22 23
New York answer by, to Virginia Resolutions	81	“ “ only way to preserve the Constitution.. id.	
North Carolina Resolutions as to State Rights	79	Union, duty to preserve it.....	5 21
Nullification “the rightful remedy”.....	59	“ “ only to be preserved by opposing every infraction of Constitution.....	id.
“ “ origin of the term.....	id.	Veto, power of vested in Tribunes in Rome.....	45
“ “ Mr J. Jefferson its author.....	57	“ “ not danger from exercise of.....	45
“ “ the right and duty of each State.....	59 60	Vermont, answer by to Virginia Resolutions. 15	
O P Q R		Violations of Constitution to be arrested at threshold.....	18
Oath to preserve State Sovereignty.....	7	“ “ only way to prevent Revolution and blood id.	
Ohio assertion by, of State Rights.....	80	Virginia Resolutions of '98.....	5
Olmstead's case.....	69	“ “ Address to the people accompanying the same.....	6
“ “ adopts the Virginia and Kentucky Resolutions.....	id.	“ “ Report thereon.....	21
Pennsylvania Resolutions as to State Rights	74 75	“ “ determined “not to submit” to undelegated power.....	59
Powers, exercise of, not granted, may be arrested by the States.....	22	“ “ Resolutions as to State Rights.....	70
“ “ each State to prevent the exercise thereof within her limits.....	60		
“ “ to provide for common defence and general welfare” limited by Constitution	25		
Randolph, Thos. Jefferson, letter to Warren R. Davis.....	60		
Rhode Island, answer of to Virginia Resolutions	9		

## CORRECTION.

In p. 60, for ‘the Kentucky Resolutions of '98,’ read ‘of '99.’—Mr Jefferson’s authorship of the Kentucky Resolutions of '98 has never been doubted. In the 4th vol. of his Memoirs, p. 844, Mr Jefferson acknowledges himself the author of those resolutions; and, from the documents now published, it appears that he was also the author of the ‘*sentiments*,’ if not of the ‘*style*,’ of those of '99; and that the celebrated expression, ‘*nullification is the rightful remedy*,’ are emphatically his own.

VIRGINIA RESOLUTIONS OF 1798,  
PRONOUNCING  
**THE ALIEN & SEDITION LAWS**  
TO BE  
**UNCONSTITUTIONAL,**  
AND  
DEFINING THE RIGHTS OF THE STATES.  
DRAWN BY MR MADISON.

---

IN THE VIRGINIA HOUSE OF DELEGATES, *Friday, Dec. 21, 1798.*

RESOLVED, That the General Assembly of Virginia, doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this State, against every aggression either foreign or domestic; and that they will support the Government of the United States in all measures warranted by the former.

That this Assembly most solemnly declares, a warm attachment to the Union of the States, to maintain which it pledges its powers; and, that for this end, it is their duty to watch over and *oppose every infraction of those principles which constitute the only basis of that Union*, because a faithful observance of them, can alone secure its existence and the public happiness.

That this Assembly doth explicitly and peremptorily declare, THAT IT VIEWS THE POWERS OF THE FEDERAL GOVERNMENT, AS RESULTING FROM THE COMPACT, TO WHICH THE STATES ARE PARTIES, AS LIMITED BY THE PLAIN SENSE AND INTENTION OF THE INSTRUMENT CONSTITUTING THAT COMPACT, AS NO FARTHER VALID THAN THEY ARE AUTHORIZED BY THE GRANTS ENUMERATED IN THAT COMPACT; AND THAT IN CASE OF A DELIBERATE, PALPABLE, AND DANGEROUS EXERCISE OF OTHER POWERS, NOT GRANTED BY THE SAID COMPACT, THE STATES, WHO ARE PARTIES THERETO, HAVE THE RIGHT, AND ARE IN DUTY BOUND, TO INTERPOSE, FOR ARRESTING THE PROGRESS OF THE EVIL, AND FOR MAINTAINING WITHIN THEIR RESPECTIVE LIMITS, THE AUTHORITIES, RIGHTS, AND LIBERTIES APPERTAINING TO THEM.

That the General Assembly doth also express its deep regret, that a spirit has, in sundry instances, been manifested by the Federal Government, to enlarge its powers by forced constructions of the constitutional charter which defines them; and, that indications have appeared of a design to expound certain general phrases (which, having been copied from the very limited grant of powers in the former articles of confederation were the less liable to be misconstrued) so as to destroy the meaning and effect, of the particular enumeration which necessarily explains, and limits the general phrases, and so as to CONSOLIDATE THE STATES BY DEGREES, INTO ONE SOVEREIGNTY, THE OBVIOUS TENDENCY AND INEVITABLE RESULT OF WHICH WOULD BE, TO TRANSFORM THE PRESENT REPUBLICAN SYSTEM OF THE UNITED STATES, INTO AN ABSOLUTE, OR AT BEST, A MIXED MONARCHY.



That the General Assembly doth particularly protest against the palpable, and alarming infractions of the Constitution, in the two late cases of the "Alien and Sedition Acts," passed at the last session of Congress; the first of which, exercises a power no where delegated to the Federal Government, and which by uniting Legislative and Judicial powers to those of Executive, subverts the general principles of free government, as well as the particular organization and positive provisions of the Federal Constitution; and the other of which acts, exercises in like manner, a power not delegated by the Constitution, but on the contrary, expressly and positively forbidden by one of the amendments thereto; a power, which more than any other, ought to produce universal alarm, because it is levelled against the right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed, the only effectual guardian of every other right.

That this State having by its Convention, which ratified the Federal Constitution, expressly declared, that among other essential rights, "the liberty of conscience and the press cannot be cancelled, abridged, restrained, or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having with other States, recommended an amendment for that purpose, which amendment was, in due time, annexed to the Constitution, it would mark a reproachful inconsistency, and criminal degeneracy, if an indifference were now shown, to the most palpable violation of one of the rights, thus declared and secured; and to the establishment of a precedent which may be fatal to the other.

That the good people of this Commonwealth, having ever felt, and continuing to feel the most sincere affection for their brethren of the other States; the truest anxiety for establishing and perpetuating the union of all; and the most scrupulous fidelity to that Constitution, which is the pledge of mutual friendship, and the instrument of mutual happiness; the General Assembly doth solemnly appeal to the like dispositions in the other States, in confidence, that they will concur with this Commonwealth, in declaring, as it does hereby declare, that the acts aforesaid, are UNCONSTITUTIONAL; and, that the necessary and proper measures will be taken by each for co-operating with this State, in maintaining unimpaired, the authorities, rights, and liberties, reserved to the States respectively, or to the people.

That the Governor be desired to transmit a copy of the foregoing resolutions to the Executive authority of each of the other States, with a request, that the same may be communicated to the Legislature thereof; and that a copy be furnished to each of the Senators and Representatives representing this State in the Congress of the United States.

Attest,

JOHN STEWART.

1798, December, 24th. Agreed to by the Senate.

H. BROOKE.

A true copy from the original deposited in the office of the General Assembly.  
JOHN STEWART, Keeper of Rolls.

#### EXTRACTS

*From the Address to the People, which accompanied the foregoing Resolutions.*

FELLOW CITIZENS—Unwilling to shrink from our representative responsibility, conscious of the purity of our motives, but acknowledging your right to supervise our conduct, we invite your serious attention to the emergency which dictated the subjoined resolutions. Whilst we disdain to alarm you by ill-founded jealousies, we recommend an investigation, guided by the coolness of wisdom, and a decision bottomed on firmness, but tempered with moderation.

It would be perfidious in those entrusted with the GUARDIANSHIP OF THE STATE SOVEREIGNTY, and acting under the solemn obligation of the following oath: "I do swear, that I will support the Constitution of the United States," not to warn you of encroachments, which, though clothed with the pretext of necessity, or disguised by arguments of expediency, may yet establish precedents, which may ultimately devote a generous and unsuspecting people to all the consequences of usurped power.

Encroachments springing from a Government, WHOSE ORGANIZATION CANNOT BE MAINTAINED WITHOUT THE CO-OPERATION OF THE STATES, furnish the strongest excitements upon the State Legislatures to watchfulness, and impose upon them the strongest obligation, TO PRESERVE UNIMPAIRED THE LINE OF PARTITION.

The acquiescence of the States under infractions of the Federal Compact, would either beget a speedy consolidation, by precipitating the State Governments into impotency and contempt; or prepare the way for a revolution, by a repetition of these infractions, until the people are aroused to appear in the majesty of their strength. It is to avoid these calamities, that we exhibit to the people, the momentous question, whether the Constitution of the United States shall yield to a construction, which defies every restraint, and overwhelms the best hopes of republicanism.

Exhortations to disregard domestic usurpation, until foreign danger shall have past, is an artifice which may be forever used; because the possessors of power, who are the advocates for its extension, can ever create national embarrassments, to be successively employed to soothe the people into sleep, whilst that power is swelling, silently, secretly, and fatally. Of the same character are insinuations of a foreign influence, which seize upon a laudable enthusiasm against danger from abroad, and distort it by an unnatural application, so as to blind your eyes against danger at home.

The Sedition act presents a scene, which was never expected by the early friends of the Constitution. It was then admitted, that the *State sovereignties were only diminished, by powers specifically enumerated*, or necessary to carry the specified powers into effect. Now Federal authority is deduced from *implication*, and from the existence of State law. It is inferred, that Congress possess a similar power of legislation; whence Congress will be endowed with a power of legislation, in all cases whatsoever, and the States will be stripped of every right reserved, by the concurrent claims of a paramount Legislature.

The Sedition act is the offspring of these tremendous pretensions, which inflict a death wound on the sovereignty of the States.

For the honor of American understanding, we will not believe, that the people have been allured into the adoption of the Constitution, by an affectation of defining powers, whilst the *preamble* would admit a construction, which would erect the *will of Congress* into a power *paramount in all cases*, and therefore limited in none. On the contrary, it is evident that the objects for which the Constitution was formed were deemed attainable only by a particular enumeration and specification of each power granted to the Federal Government; reserving all others to the people, or to the States. And yet it is in vain we search for any specified power, embracing the right of legislation against the freedom of the press.

Had the States been despoiled of their sovereignty by the generality of the preamble, and had the Federal Government been endowed with whatever they should judge to be instrumental towards union, justice, tranquillity, common defence, general welfare, and the preservation of liberty, nothing could have been more frivolous than an enumeration of powers.

All the preceding arguments arising from a deficiency of constitutional power in Congress, apply to the Alien act, and this act is liable to other ob-



jections peculiar to itself. If a suspicion that aliens are dangerous, constitute the justification of that power exercised over them by Congress, then a similar suspicion will justify the exercise of a similar power over natives. Because there is nothing in the Constitution distinguishing between the power of a State to permit the residence of natives and aliens. It is, therefore, a right originally possessed, and never surrendered by the respective States, and which is rendered dear and valuable to Virginia, because it is assailed through the bosom of the Constitution, and because her peculiar situation renders the easy admission of artizans and laborers an interest of vast importance.

But this bill contains other features, still more alarming and dangerous. It dispenses with the trial by jury; it violates the judicial system; it confounds legislative, executive, and judicial powers; it punishes without trial; and it bestows upon the President despotic power over a numerous class of men. Are such measures consistent with our constitutional principles? And will an accumulation of power so extensive, in the hands of the Executive, over aliens, secure to natives the blessings of republican liberty?

If measures can mould Governments, and if an uncontrolled power of construction, is surrendered to those who administer them, their progress may be easily foreseen and their end easily foretold. A lover of monarchy, who opens the treasures of corruption, by distributing emolument among devoted partizans, may at the same time be approaching his object, and deluding the people with professions of republicanism. He may confound monarchy and republicanism, by the art of definition. He may varnish over the dexterity which ambition never fails to display, with the pliancy of language, the seduction of expediency, or the prejudices of the times. And he may come at length to avow, that so extensive a territory as that of the United States, can only be governed by the energies of monarchy; that it cannot be defended, except by standing armies; and that it cannot be united, except by consolidation.

Measures have already been adopted, which may lead to these consequences. They consist:

In fiscal systems and arrangements, which keep an host of commercial and wealthy individuals, embodied and obedient, to the mandates of the treasury.

In armies and navies, which will, on the one hand, enlist the tendency of man to pay homage to his fellow creature who can feed or honor him; and on the other, employ the principle of fear, by punishing imaginary insurrections, under the pretext of preventive justice.

In swarms of officers, civil and military, who can inculcate political tenets tending to consolidation and monarchy, both by indulgencies and severities; and can act as spies over the free exercise of human reason.

In restraining the freedom of the press, and investing the Executive with legislative, executive, and judicial powers, over a numerous body of men.

And, that we may shorten the catalogue, in *establishing by successive precedents such a mode of construing the Constitution, as will rapidly remove every restraint upon Federal power.*

Let history be consulted; let the man of experience reflect; nay, let the artificers of monarchy be asked, what farther materials they can need for building up their favorite system?

These are solemn, but painful truths; and yet we recommend it to you, not to forget the possibility of danger from without, although danger threatens us from within. Usurpation is indeed dreadful, but against foreign invasion, if that should happen, let us rise with hearts and hands united, and repel the attack, with the zeal of freemen, who will strengthen their title to examine and correct domestic measures, by having defended their country against foreign aggression.



Pledged as we are, fellow-citizens, to these sacred engagements, we yet humbly and fervently implore the Almighty Disposer of Events, to avert from our land war and usurpation, the scourges of mankind; to permit our fields to be cultivated in peace; to instil into nations the love of friendly intercourse; to suffer our youth to be educated in virtue; and to preserve our morality from the pollution, invariably incident to habits of war; to prevent the laborer and husbandman from being harassed by *taxes and imposts*; to remove from ambition, the means of disturbing the Commonwealth; to annihilate all pretexts for power afforded by war; to maintain the Constitution; and, to bless our nation with tranquillity, under whose benign influence, we may reach the summit of happiness and glory, to which we are destined by NATURE and NATURE'S GOD.

Attest,

JOHN STEWART, C. H. D.

1799, January 23d. Agreed to by the Senate.

H. BROOKE, C. S.

A true copy from the original deposited in the office of the General Assembly.

JOHN STEWART, Keeper of Rolls.

## ANSWERS OF THE SEVERAL STATE LEGISLATURES

### STATE OF DELAWARE.

*In the House of Representatives, February 1, 1799.*—Resolved, By the Senate and House of Representatives of the State of Delaware, in General Assembly met, that they consider the resolutions from the State of Virginia, as a very unjustifiable interference with the General Government and constituted authorities of the United States, and of dangerous tendency, and therefore not fit subject for the further consideration of the General Assembly.

ISAAC DAVIS, Speaker of the Senate.

STEPHEN LEWIS, Speaker of the House of Rep's:

Test—John Fisher, C. S.—John Caldwell, C. H. R.

### STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.

*In General Assembly, February, A. D. 1799.*—Certain Resolutions of the Legislature of Virginia, passed on 21st of December last, being communicated to this Assembly,

1 Resolved, That in the opinion of this legislature, the second section of third article of the Constitution of the United States in these words, to wit: *The Judicial power shall extend to all cases, arising under the laws of the United States*, vests in the Federal Courts, exclusively, and in the Supreme Court of the United States, ultimately the authority of deciding on the constitutionality of any act or law of the Congress of the United States.

2 Resolved, That for any state legislature to assume that authority, would be,

1st. Blending together legislative and judicial powers.

2d. Hazarding an interruption of the peace of the states by civil discord, in case of a diversity of opinions among the state legislatures; each state having, in that case, no resort for vindicating its own opinions, but to the strength of its own arm.

3d. Submitting most important questions of law to less competent tribunals: and

4th An infraction of the Constitution of the United States, expressed in plain terms.

3 Resolved, That although for the above reasons, this legislature, in their public capacity, do not feel themselves authorised to consider and decide on the constitutionality of the Sedition and Alien laws (so called:) yet they are called upon by the exigency of this occasion, to declare, that in their private opinions, these laws are within the powers delegated to Congress, and promotive of the welfare of the United States,

4 *Resolved*, That the governor communicate these resolutions to the supreme executive of the state of Virginia, and at the same time express to him that this legislature cannot contemplate, without extreme concern and regret, the many evil and fatal consequences which may flow from the very unwarrantable resolutions aforesaid, of the legislature of Virginia, passed on the twenty-first day of December last.

A true copy,

SAMUEL EDDY, Sec'y.

### COMMONWEALTH OF MASSACHUSETTS.

*In Senate, February 9, 1799.*—The Legislature of Massachusetts having taken into serious consideration the resolutions of the state of Virginia, passed the 21st day of December last. and communicated by his excellency the governor, relative to certain supposed infractions of the constitution of the United States. by the government thereof, and being convinced that the Federal Constitution is calculated to promote the happiness, prosperity and safety of the people of these United States, and to maintain that union of the several states, so essential to the welfare of the whole; and being bound by solemn oath to support and defend that Constitution, feel it unnecessary to make any professions of their attachment to it, or of their firm determination to support it against every aggression, foreign or domestic.

But they deem it their duty solemnly to declare, that while they hold sacred the principle, that consent of the people is the only pure source of just and legitimate power, they cannot admit the right of the state legislatures to denounce the administration of that government to which the people themselves, by a solemn compact, have exclusively committed their national concerns: That, although a liberal and enlightened vigilance among the people is always to be cherished, yet an unreasonable jealousy of the men of their choice, and a recurrence to measures of extremity, upon groundless or trivial pretexts, have a strong tendency to destroy all rational liberty at home, and to deprive the United States of the most essential advantages in their relations abroad; That this legislature are persuaded, that the decision of all cases in law and equity, arising under the Constitution of the United States, and the construction of all laws made in pursuance thereof are exclusively vested by the people in the judicial courts of the United States.

That the people in that solemn compact, which is declared to be the supreme law of the land, have not constituted the state legislatures the judges of the acts or measures of the Federal Government, but have confided to them, the power of proposing such amendments of the Constitution, as shall appear to them necessary to the interests, or conformable to the wishes of the people whom they represent.

That by this construction of the Constitution, an amicable and dispassionate remedy is pointed out for any evil which experience may prove to exist, and the peace and prosperity of the United States may be preserved without interruption.

But, should the respectable state of Virginia persist in the assumption of the right to declare the acts of the National Government unconstitutional, and should she oppose successfully her force and will to those of the nation, the Constitution would be reduced to a mere cypher, to the form and pageantry of authority, without the energy of power. Every act of the Federal Government which thwarted the views or checked the ambitious projects of a particular state, or of its leading and influential members, would be the object of opposition and of remonstrance; while the people, convulsed and confused by the conflict between two hostile jurisdictions, enjoying the protection of neither, would be wearied into a submission to some bold leader, who would establish himself on the ruins of both.



The legislature of Massachusetts, although they do not themselves claim the right, nor admit the authority, of any of the state governments, to decide upon the constitutionality of the acts of the Federal Government, still, least their silence should be construed into disapprobation, or at best into a doubt of the constitutionality of the acts referred to by the state of Virginia; and, as the General Assembly of Virginia has called for an expression of their sentiments, do explicitly declare, that they consider the acts of Congress, commonly called "the alien and sedition acts," not only constitutional, but expedient and necessary: That the former act respects a description of persons whose rights were not particularly contemplated in the Constitution of the United States, who are entitled only to a temporary protection, while they yield a temporary allegiance; a protection which ought to be withdrawn when ever they become "dangerous to the public safety," or are found guilty of "treasonable machination" against the government: That Congress having been especially entrusted by the people with the general defence of the nation, had not only the right, but were bound to protect it against internal as well as external foes. That the United States, at the time of passing the *act concerning aliens*, were threatened with actual invasion, had been driven by the unjust and ambitious conduct of the French Government into warlike preparations, expensive and burthensome, and had then, within the bosom of the country, thousands of aliens, who, we doubt not, were ready to co-operate in any external attack.

It cannot be seriously believed, that the United States should have waited till the poignard had in fact been plunged. The removal of aliens is the usual preliminary of hostility, and is justified by the invariable usages of nations. Actual hostility had unhappily long been experienced, and a formal declaration of it the government had reason daily to expect. The law, therefore was just and salutary, and no officer could with so much propriety be entrusted with the execution of it, as the one in whom the Constitution has reposed the executive power of the United States.

The *sedition act*, so called, is, in the opinion of this legislature, equally defensible. The General Assembly of Virginia, in their resolve under consideration, observe, that when that state by its convention, ratified the Federal Constitution, it expressly declared, "That, among other essential rights, the liberty of conscience and of the press cannot be cancelled, abridged, restrained or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry or ambition, with other states, recommend an amendment for that purpose: which amendment was, in due time, annexed to the Constitution; but they did not surely expect that the proceedings of their state convention were to explain the amendment adopted by the Union. The words of that amendment, on this subject, are, "Congress shall make no law abridging the freedom of speech or of the press."

The act complained of is no abridgment of the freedom of either. The genuine liberty of speech and the press, is the liberty to utter and publish the truth; but the constitutional right of the citizen to utter and publish the truth, is not to be confounded with the licentiousness in speaking and writing, that is only employed in propagating falsehood and slander. This freedom of the press has been explicitly secured by most, if not all the state constitutions; and of this provision there has been generally but one construction among enlightened men; that it is a security for the rational use and not the abuse of the press; of which the courts of law, the juries and people will judge; this right is not infringed, but confirmed and established by the late act of Congress.

By the Constitution, the legislative, executive and judicial departments of government are ordained and established; and general enumerated powers

vested in them respectively, including those which are prohibited to the several states. Certain powers are granted in general terms by the people to their general government, for the purposes of their safety and protection. The government is not only empowered, but it is made their duty to repel invasions and suppress insurrections; to guarantee to the several states a republican form of government; to protect each state against invasion, and, when applied to, against domestic violence; to hear and decide all cases in law and equity, arising under the Constitution, and under any treaty or law made in pursuance thereof; and all cases of admiralty and maritime jurisdiction, and relating to the law of nations. Whenever, therefore, it becomes necessary to effect any of the objects designated, it is perfectly consonant to all just rules of construction, to infer, that the usual means and powers necessary to the attainment of that object, are also granted: But the Constitution has left no occasion to resort to implication for these powers; it has made an express grant of them; in the 8th section of the first article, which ordains, "That Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the government of the United States or in any department or officer thereof."

This Constitution has established a Supreme Court of the United States, but has made no provision for its protection, even against such improper conduct in its presence, as might disturb its proceedings, unless expressed in the section before recited. But as no statute has been passed on this subject, this protection is, and has been for nine years past, uniformly found in the application of the principles and usages of the common law. The same protection may unquestionably be afforded by a statute passed in virtue of the before mentioned section, as necessary and proper, for carrying into execution the powers vested in that department. A construction of the different parts of the Constitution, perfectly just and fair, will, on analagous principles, extend protection and security against the offences in question, to the other departments of government, in discharge of their respective trusts.

The President of the United States is bound by his oath "to preserve, protect and defend the Constitution." and it is expressly made his duty "to take care that the laws be faithfully executed;" but this would be impracticable by any created being, if there could be no legal restraint of those scandalous misrepresentations of his measures and motives, which directly tend to rob him of the public confidence. And equally impotent would be every other public officer, if thus left to the mercy of the seditious.

It is holden to be a truth most clear, that the important trusts before enumerated, cannot be discharged by the government to which they are committed, without the power to restrain seditious practices and unlawful combinations against itself, and to protect the officers thereof from abusive misrepresentations. Had the Constitution withheld this power, it would have made the government responsible for the effects without any control over the causes which naturally produce them, and would have essentially failed of answering the great ends for which the people of the United States declare, in the first clause of that instrument, that they establish the same, viz: "To form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and posterity."

Seditious practices and unlawful combinations against the Federal Government, or any officer thereof, in the performance of his duty, as well as licentiousness of speech and of the press were punishable on the principles of common law in the courts of the United States, before the act in question



was passed. This act then is an amelioration of that law in favor of the party accused, as it mitigates the punishment which that authorises, and admits of any investigation of public men and measures which is regulated by truth. It is not intended to protect men in office, only as they are agents of the people. Its object is to afford legal security to public offices and trusts created for the safety and happiness of the people, and therefore the security derived from it is for the benefit of the people, and is their right.

This construction of the Constitution and of the existing law of the land, as well as the act complained of, the legislature of Massachusetts most deliberately and firmly believe results from a just and full view of the several parts of the Constitution: and they consider that act to be wise and necessary. as an audacious and unprincipled spirit of falsehood and abuse had been too long unremittingly exerted for the purpose of perverting public opinion, and threatened to undermine and destroy the whole fabric of government.

The legislature further declare, that in the foregoing sentiments they have expressed the general opinion of their constituents, who have not only acquiesced without complaint in those particular measures of the Federal Government, but have given their explicit approbation by re-electing those men who voted for the adoption of them. Nor is it apprehended, that the citizens of this state will be accused of supineness or of an indifference to their constitutional rights; for, while on the one hand, they regard with due vigilance the conduct of the government; on the other, their freedom, safety and happiness require, that they should defend that government and its constitutional measures against the open or insidious attacks of any foe, whether foreign or domestic.

And, lastly, that the legislature of Massachusetts feel a strong conviction, that the several United States are connected by a common interest which ought to render their union indissoluble, and that this state will always co-operate with its confederate states in rendering that union productive of mutual security, freedom and happiness.

Sent down for concurrence.

SAMUEL PHILIPS, *President.*

*In the House of Representatives, Feb 13, 1799*

Read and concurred.

EDWARD H. ROBBINS, *Speaker.*

A true copy.

Attest,

JOHN AVERY, *Secretary.*

#### STATE OF NEW YORK.

*In Senate, March 5, 1799.*—Whereas, the people of the United States have established for themselves a free and independent national government: And whereas it is essential to the existence of every government, that it have authority to defend and preserve its constitutional powers inviolate, inasmuch, as every infringement thereof tends to its subversion. And whereas the judicial power extends expressly to all cases of law and equity arising under the Constitution and the laws of the United States whereby the interference of the legislatures of the particular states in those cases is manifestly excluded. And, whereas, our peace, prosperity and happiness, eminently depend on the preservation of the Union, in order to which, a reasonable confidence in the constituted authorities and chosen representatives of the people is indispensable. And, whereas, every measure calculated to weaken that confidence, has a tendency to destroy the usefulness of our public functionaries, and to excite jealousies equally hostile to rational liberty, and the principles of a good republican government. And, whereas, the Senate not perceiving that the rights of the particular states have been violated, nor any unconstitutional powers assumed by the general government, cannot forbear to express the anxiety and regret with which they observe the inflammatory and pernicious sentiments and doctrines which are contained in the resolutions of

the legislatures of Virginia and Kentucky—sentiments and doctrines, no less repugnant to the Constitution of the United States, and the principles of their union, than destructive to the Federal Government, and unjust to those whom the people have elected to administer it: wherefore. *Resolved*, That while the Senate feel themselves constrained to bear unequivocal testimony, against such sentiments and doctrines, they deem it a duty no less indispensable, explicitly to declare their incompetency, as a branch of the legislature of this state, to supervise the acts of the General Government.

*Resolved*, That his excellency, the governor be, and he is hereby requested to transmit a copy of the foregoing resolution to the executives of the states of Virginia and Kentucky, to the end, that the same may be communicated to the legislatures thereof.

A true copy,

ABM. B. BAUCKER, *Clerk*.

#### STATE OF CONNECTICUT.

At a general assembly of the state of Connecticut, holden at Hartford, in the said State, on the second Thursday of May, Anno Domini, 1799, his excellency the Governor having communicated to this assembly sundry resolutions of the Legislature of Virginia adopted in December, 1798, which relate to the measures of the general government, and the said resolutions having been considered, it is

*Resolved*, That this assembly views with deep regret, and explicitly disavows, the principles contained in the aforesaid resolutions; and particularly the opposition to the "alien and sedition acts"—acts which the constitution authorised: which the exigency of the country rendered necessary: which the constituted authorities have enacted, and which merit the entire approbation of this assembly. They, therefore, decidedly refuse to concur with the Legislature of Virginia, in promoting any of the objects attempted in the aforesaid resolutions.

And it is further resolved, That his excellency the Governor be requested to transmit a copy of the foregoing resolution to the Governor of Virginia, that it may be communicated to the Legislature of that State.

*Passed in the House of Representatives unanimously.*

Attest, JOHN C. SMITH, *Clerk*.

*Concurred, unanimously, in the Upper House.*

Teste, SAM. WYLLYS, *Sec'y*.

#### STATE OF NEW HAMPSHIRE.

*In the House of Representatives, June 14, 1799.*—The committee, to take into consideration the resolutions of the general assembly of Virginia, dated December 21st, 1798; also certain resolutions of the Legislature of Kentucky, of the 10th November, 1798, report as follows:

The Legislature of New Hampshire having taken into consideration certain resolutions of the general assembly of Virginia, dated December 21, 1798; also certain resolutions of the Legislature of Kentucky, of the 10th of November, 1798,

*Resolved*, That the Legislature of New Hampshire unequivocally express a firm resolution to maintain and defend the constitution of the United States, and the constitution of this State, against every aggression, either foreign or domestic, and that they will support the government of the United States in all measures warranted by the former.

That the State Legislatures are not the proper tribunals to determine the constitutionality of the laws of the general government—that the duty of such decision is properly and exclusively confided to the judicial department.

That if the Legislature of New Hampshire, for mere speculative purposes, were to express an opinion on the acts of the general government, commonly



called "the alien and sedition bills," that opinion would unreservedly be, that those acts are constitutional, and in the present critical situation of our country, highly expedient.

That the constitutionality and expediency of the acts aforesaid, have been very ably advocated and clearly demonstrated by many citizens of the United States, more especially by the minority of the General Assembly of Virginia. The Legislature of New Hampshire, therefore, deem it unnecessary, by any train of arguments, to attempt further illustration of the propositions, the truth of which, it is confidently believed, at this day, is very generally seen and acknowledged.

Which report being read and considered, was unanimously received and accepted, one hundred and thirty-seven members being present.

Sent up for concurrence.

JOHN PRENTICE, *Speaker*.

In Senate, same day, read and concurred unanimously.

AMOS SHEPARD, *President*.

Approved, June 15th, 1799.

J. T. GILMAN, *Governor*.

A true copy. Attest,

JOSEPH PEARSON, *Secretary*.

### STATE OF VERMONT.

*In the House of Representatives, October 30th, A. D. 1799.*—The House proceeded to take under their consideration the resolutions of the General Assembly of Virginia, relative to certain measures of the general government, transmitted to the Legislature of this State, for their consideration: Whereupon,

*Resolved*, That the General Assembly of the State of Vermont do highly disapprove of the resolutions of the General Assembly of Virginia, as being unconstitutional in their nature, and dangerous in their tendency. It belongs not to State Legislatures to decide on the constitutionality of laws made by the general government; this power being exclusively vested in the judiciary courts of the Union: That his excellency the Governor be requested to transmit a copy of this resolution to the executive of Virginia, to be communicated to the General Assembly of that State: And that the same be sent to the Governor and Council for their concurrence.

SAMUEL C. CRAFTS, *Clerk*.

*In Council, October 30, 1799.* Read and concurred unanimously

RICHARD WHITNEY, *Secretary*.

### KENTUCKY RESOLUTIONS OF 1798 AND 1799.

[THE ORIGINAL DRAUGHT PREPARED BY THOMAS JEFFERSON]

*The following Resolutions passed the House of Representatives of Kentucky, Nov. 10th, 1798. On the passage of the first Resolution, one dissident; 2d, 3d, 4th, 5th, 6th, 7th, 8th, two dissidents; 9th, three dissidents.*

I. RESOLVED, That the several States composing the United States of America, are not united on the principle of unlimited submission to their General Government; but that by compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government; and, that whensoever the General Government assumes undelegated powers, its acts are unauthoritative, void, and of no force; that to this compact each State acceded as a State, and is an integral party; that this Government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers: but, that as in all other cases of compact, among parties having no

common judge. EACH PARTY HAS AN EQUAL RIGHT TO JUDGE FOR ITSELF. AS WELL OF INFRACTIONS AS OF THE MODE AND MEASURE OF REDRESS.

II. RESOLVED, That the Constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the high seas, and offences against the laws of nations, and no other crimes whatever, and it being true, as a general principle, and one of the amendments to the Constitution having also declared, "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," therefore, also, the same act of Congress, passed on the 14th day of July, 1798, and entitled, "An act in addition to the act entitled an act for the punishment of certain crimes against the United States;" as also, the act passed by them on the 27th day of June, 1798, entitled, "An act to punish frauds committed on the Bank of the United States;" (and all other their acts which assume to create, define, or punish crimes other than those enumerated in the Constitution) *are altogether void and of no force*, and that the power to create, define, and punish such other crimes is reserved, and of right appertains solely and exclusively to the respective States, each within its own territory.

III. RESOLVED, That it is true, as a general principle, and is also expressly declared by one of the amendments to the Constitution, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people;" and, that no power over the freedom of religion, freedom of speech, or freedom of the press being delegated to the United States by the Constitution, nor prohibited by it to the States, all lawful powers respecting the same did of right remain, and were reserved to the States or to the people; that thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use, should be tolerated rather than the use be destroyed; and thus also they guarded against all abridgment by the United States, of the freedom of religious principles and exercises, and retained to themselves the right of protecting the same, as this, stated by a law passed on the general demand of its citizens, had already protected them from all human restraint or interference: and, that, in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution, which expressly declares, that "Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press," thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch, that whatever violates either, throws down the sanctuary which covers the others, and that libels, falsehood, and defamation, equally with heresy and false religion, are withheld from the cognizance of Federal tribunals. That therefore the act of the Congress of the United States, passed on the 14th of July, 1798, entitled, "An act in addition to the act entitled an act for the punishment of certain crimes against the United States," which does abridge the freedom of the press, is NOT LAW, but is altogether void and OF NO FORCE.

IV. RESOLVED, That alien friends are under the jurisdiction and protection of the laws of the State wherein they are: that no power over them has been delegated to the United States, nor prohibited to the individual States distinct from their power over citizens; and it being true, as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor pro-



hibited to the States, are reserved to the States respectively, or to the people," the act of the Congress of the United States, passed the 22d day of June, 1798, entitled, "An act concerning aliens," which assumes power over alien friends not delegated by the Constitution, is NOT LAW, but is altogether VOID and OF NO FORCE.

V. RESOLVED, That in addition to the general principle as well as the express declaration, that powers not delegated are reserved, another and more special provision inferred in the Constitution, from abundant caution has declared, "that the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." That this Commonwealth does admit the migration of alien friends described as the subject of the said act concerning aliens; that a provision against prohibiting their migration, is a provision against all acts equivalent thereto, or it would be nugatory; that to remove them when migrated is equivalent to a prohibition of their migration, and is, therefore, contrary to the said provision of the Constitution, and void.

VI. RESOLVED, That the imprisonment of a person under the protection of the laws of this Commonwealth on his failure to obey the simple order of the President, to depart out of the United States, as is undertaken by the said act, entitled, "An act concerning aliens," is contrary to the Constitution, one amendment in which has provided, that "no person shall be deprived of liberty without due process of law," and, that another having provided, "that in all criminal prosecutions, the accused shall enjoy the right to a public trial by an impartial jury, to be informed as to the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have assistance of counsel for his defence," the same act undertaking to authorise the President to remove a person out of the United States who is under the protection of the law, on his own suspicion, without jury, without public trial; without confrontation of the witnesses against him, without having witnesses in his favor, without defence, without counsel, is contrary to these provisions also of the Constitution, is therefore NOT LAW, but utterly VOID and OF NO FORCE.

That transferring the power of judging any person who is under the protection of the laws, from the courts to the President of the United States as is undertaken by the same act concerning aliens, is against the article of the Constitution which provides, that, "the judicial power of the United States shall be vested in the courts, the judges of which shall hold their office during good behavior," and that the said act is void for that reason also; and it is further to be noted that this transfer of judiciary power is to that magistrate of the general government who already possesses all the executive, and a qualified negative in all the legislative powers.

VII. RESOLVED, That the construction applied by the General Government (as is evident by sundry of their proceedings) to those parts of the Constitution of the United States, which delegate to Congress, power to lay and collect taxes, duties, imposts, excises; to pay the debts, and provide for the common defence, and general welfare of the United States, and to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution—That words meant by that instrument to be subsidiary only to the execution of the limited powers, ought not to be so construed as themselves to give unlimited powers. nor a part so to be taken, as to destroy the whole residue of the instrument: That the proceedings of the General Government under color of those articles, will be a fit and necessary subject for revisal and correction at a time of greater tranquillity, while those specified in the preceding resolutions call for immediate redress.

VIII. RESOLVED, That the preceding resolutions be transmitted to the Sen-

ators and Representatives in Congress from this commonwealth, who are enjoined to present the same to their respective houses, and to use their best endeavors to procure at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts.

IX. RESOLVED lastly, That the governor of this commonwealth be, and is hereby authorised and requested to communicate the preceding resolutions to the legislatures of the several states, to assure them that this commonwealth considers union for special national purposes, and particularly for those specified in their late federal compact, to be friendly to the peace, happiness, and prosperity of all the states—that faithful to that compact, according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation; that it does also believe, that to take from the states all the powers of self government, and transfer them to a general and consolidated government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of these states: And that therefore, this commonwealth is determined, as it doubts not its co-states are, to *submit to undelegated and consequently unlimited powers in no man, or body of men on earth*: that if the acts before specified should stand, these conclusions would flow from them; that the general government may place any act they think proper on the list of crimes and punish it themselves whether enumerated or not enumerated, by the Constitution as cognizable by them; that they may transfer its cognizance to the President or any other person, who may himself be the accuser, counsel, judge, and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction; that a very numerous and valuable description of the inhabitants of these states, being by this precedent reduced as out laws to the absolute dominion of one man and the barriers of the Constitution thus swept from us all; no rampart now remains against the passions and the power of a majority of Congress, to protect from a like exportation or other grievous punishment the minority of the same body, the legislatures, judges, governors, and counsellors of the states, nor their other peaceable inhabitants who may venture to reclaim the constitutional rights and liberties of the states, and people, or who, for other causes, good or bad, may be obnoxious to the view or marked by the suspicions of the President, or to be thought dangerous to his or their elections or other interests, public or personal; that the friendless alien has been selected as the safest subject of a first experiment; but the citizen will soon follow, or rather has already followed; for, already has a sedition act marked him as a prey: That these and successive acts of the same character, unless *arrested on the threshold*, may tend to drive these states into revolution and blood, and will furnish new calumnies against republican governments, and new pretexts for those who wish it to be believed, that man cannot be governed but by a rod of iron; that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights; that confidence is every where the parent of despotism; free government is founded in jealousy and not in confidence; it is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power; that our Constitution has accordingly fixed the limits to which and no farther our confidence may go; and let the honest advocate of confidence read the alien and sedition acts, and say if the Constitution has not been wise in fixing limits to the government it created, and whether we should be wise in destroying those limits? Let him say what the government is, if it be not a tyranny, which the men of our choice have conferred on the President, and the President of our choice has assented to and accepted over the friendly strangers, to whom the mild spirit of our country and its laws had pledged hospitality and protection; that the men of our choice



have more respected the bare suspicions of the President than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice. ( In questions of power then let no more be said of confidence in man, but bind him down from mischief by the chains of the Constitution. ) That THIS COMMONWEALTH DOES THEREFORE CALL ON ITS CO-STATES for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes herein before specified, plainly declaring whether these acts are or are not authorized by the federal compact. *And it doubts not that their sense will be so announced as to prove their attachment to limited government, whether general or particular, and that the rights and liberties of their co-estates will be exposed to no dangers by remaining embarked on a common bottom with their own: But they will concur with this commonwealth in considering the said acts as so palpably against the Constitution as to amount to an undisguised declaration, that the compact is not meant to be the measure of the powers of the General Government, but that it will proceed in the exercise over these states of all powers whatsoever. That they will view this as seizing the rights of the states and consolidating them in the hands of the General Government, with a power assumed to bind the states (not merely in cases made federal) but in all cases whatsoever, by laws made, not with their consent, but by others against their consent; that this would be to surrender the form of government we have chosen, and live under one deriving its powers from its own will, and not from our authority; and that the co-states recurring to their natural rights in cases not made federal, will concur in declaring these VOID and of no FORCE, and will each unite with this commonwealth in requesting their repeal at the next session of Congress.*

EDMUND BULLOCK, S. H. R.

JOHN CAMPBELL, S. S. P. T.

Passed the House of Representatives, Nov. 10, 1798.

Attest :

THO'S. TODD, C. H. R.

In SENATE, Nov 13, 1798—Unanimously concurred in.

Attest :

B. THURSTON, C. S.

Approved, November 19th, 1798.

JAMES GARRARD, Governor of Kentucky.

By the Governor :

HARRY TOULMIN, Secretary of State.

HOUSE OF REPRESENTATIVES, *Thursday, Nov. 14th, 1799.*

The House, according to the standing order of the day, resolved itself into a Committee of the Whole House, on the State of the Commonwealth, Mr. Desha in the Chair; and, after some time spent therein, the Speaker resumed the Chair, and Mr. Desha reported, that the Committee had taken under consideration sundry resolutions passed by several State Legislatures, on the subject of the Alien and Sedition Laws, and had come to a resolution thereupon, which he delivered in at the Clerk's table, where it was read and *unanimously* agreed to by the House, as follows:

The representatives of the good people of this Commonwealth, in General Assembly convened, having maturely considered the answers of sundry States in the Union, to their resolutions passed the last session, respecting certain unconstitutional laws of Congress, commonly called the Alien and Sedition Laws, would be faithless, indeed, to themselves and to those they represent, were they silently to acquiesce in the principles and doctrines attempted to be maintained in all those answers, that of Virginia only excepted. To again enter the field of argument, and attempt more fully or forcibly to expose the unconstitutionality of those obnoxious laws, would, it is apprehended, be as unnecessary as unavailing. We cannot, however, but lament, that, in the discussion of those interesting subjects, by sundry of the Legislatures of our sister States, unfounded suggestions, and uncandid insinuations, derogatory to

the true character and principles of this Commonwealth has been substituted in place of fair reasoning and sound argument. Our opinions of these alarming measures of the General Government, together with our reasons for those opinions, were detailed with decency, and with temper, and submitted to the discussion and judgment of our fellow-citizens throughout the Union. Whether the like decency and temper have been observed in the answers of most of those States, who have denied or attempted to obviate the great truths contained in those resolutions, we have now only to submit to a candid world. Faithful to the true principles of the Federal Union, unconscious of any designs to disturb the harmony of that Union, and anxious only to escape the fangs of despotism, the good people of this Commonwealth are regardless of censure or calumnation. Least, however, the silence of this commonwealth should be construed into an acquiescence in the doctrines and principles advanced and attempted to be maintained by the said answers, or least those of our fellow-citizens throughout the Union who so widely differ from us on those important subjects, should be deluded by the expectation, that we shall be deterred from what we conceive our duty, or shrink from the principles contained in those resolutions—therefore,

*Resolved*, That this Commonwealth considers the Federal Union, upon the terms and for the purposes specified in the late compact, as conducive to the liberty and happiness of the several States: That it does now unequivocally declare its attachment to the Union, and to that compact, agreeably to its obvious and real intention, and will be among the last to seek its dissolution: That if those who administer the General Government be permitted to transgress the limits fixed by that compact, by a total disregard to the special delegations of power therein contained, an annihilation of the State Governments, and the creation upon their ruins of a General Consolidated Government, will be the inevitable consequence: *THAT THE PRINCIPLE AND CONSTRUCTION CONTENDED FOR BY SUNDRY OF THE STATE LEGISLATURES, THAT THE GENERAL GOVERNMENT IS THE EXCLUSIVE JUDGE OF THE EXTENT OF THE POWERS DELEGATED TO IT, STOP NOTHING SHORT OF DESPOTISM—SINCE THE DISCRETION OF THOSE WHO ADMINISTER THE GOVERNMENT, AND NOT THE CONSTITUTION, WOULD BE THE MEASURE OF THEIR POWERS:* That the several States who formed that instrument being sovereign and independent, have the unquestionable right to judge of the infraction; and, *THAT A NULLIFICATION BY THOSE SOVEREIGNTIES, OF ALL UNAUTHORIZED ACTS DONE UNDER COLOR OF THAT INSTRUMENT IS THE RIGHTFUL REMEDY:* That this Commonwealth does, under the most deliberate reconsideration, declare, that the said Alien and Sedition Laws are, in their opinion, palpable violations of the said Constitution; and, however cheerfully it may be disposed to surrender its opinion to a majority of its sister States, in matters of ordinary or doubtful policy, yet, in no momentous regulations like the present, which so vitally wound the best rights of the citizen, it would consider a silent acquiescence as highly criminal: That although this Commonwealth, as a party to the Federal compact, will bow to the laws of the Union, yet, it does, at the same time declare, that it will not now, or ever hereafter, cease to oppose in a constitutional manner, every attempt at what quarter so ever offered, to violate that compact. And, finally, in order that no pretext or arguments may be drawn from a supposed acquiescence, on the part of this Commonwealth in the constitutionality of those laws, and be thereby used as precedents for similar future violations of the Federal compact—this Commonwealth does now enter against them its **SOLEMN PROTEST.**

Extract, &c. Attest,

In SENATE, Nov. 22, 1799—Read and concurred in.

Attest,

THO'S TODD, C. H. R.

B. THURSTON, C. S.



## MR MADISON'S REPORT ON THE VIRGINIA RESOLUTIONS.

VIRGINIA.—House of Delegates, Session of 1799—1800.

*Report of the Committee to whom were referred the communications of various States, relative to the Resolutions of the last General Assembly of this State, concerning the Alien and Sedition Laws.*

Whatever room might be found in the proceedings of some of the States, who have disapproved of the resolutions of the General Assembly of this Commonwealth, passed on the 21st day of December, 1798, for painful remarks on the spirit and manner of those proceedings, it appears to the committee most consistent with the duty as well as dignity of the General Assembly, to hasten an oblivion of every circumstance, which might be construed into a diminution of mutual respect, confidence and affection, among the members of the Union.

The committee have deemed it a more useful task to revise, with a critical eye, the resolutions which have met with this disapprobation; to examine fully the several objections and arguments which have appeared against them; and to inquire whether there can be any errors of fact, of principle, or of reasoning, which the candor of the General Assembly ought to acknowledge and correct.

The first of the resolutions is in the words following:

*“Resolved, That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the constitution of the United States, and the constitution of this State, against every aggression, either foreign or domestic, and that they will support the Government of the U. States in all measures warranted by the former.”*

No unfavorable comment can have been made on the sentiments here expressed. To maintain and defend the constitution of the United States, and of their own State, against every aggression, both foreign and domestic, and to support the Government of the United States in all measures warranted by their constitution, are duties which the General Assembly ought always to feel, and to which, on such an occasion, it was evidently proper to express their sincere and firm adherence.

In their next resolution—*“The General Assembly most solemnly declares a warm attachment to the union of the States, to maintain which, it pledges all its powers; and that, for this end, it is their duty to watch over and oppose every infraction of those principles, which constitute the only basis of that Union, because a faithful observance of them can alone secure its existence and the public happiness.”*

The observation just made is equally applicable to this solemn declaration, of warm attachment to the Union, and this solemn pledge to maintain it; nor can any question arise among enlightened friends of the Union, as to the duty of watching over and opposing every infraction of those principles which constitute its basis, and a faithful observance of which, can alone secure its existence, and the public happiness thereon depending.

The third resolution is in the words following:

*“That this assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the compact, to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact—as no further valid than they are authorised by the grants enumerated in that compact; and that in case of a deliberate, palpable and dangerous exercise of other powers, not granted by the said compact, the states who are parties thereto, have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them.”*

On this resolution, the committee have bestowed all the attention which its importance merits: They have scanned it not merely with a strict, but with a severe eye; and they feel confidence in pronouncing, that, in its just and fair

construction, it is unexceptionably true in its several positions, as well as constitutional and conclusive in its inferences.

The resolution declares; *first*, that "it views the powers of the Federal Government, as resulting from the compact to which the states are parties," in other words, that the federal powers are derived from the Constitution; AND THAT THE CONSTITUTION IS A COMPACT TO WHICH THE STATES ARE PARTIES.

✓ Clear as the position must seem, that the Federal powers are derived from the Constitution, and from that alone, the committee are not unapprised of a late doctrine, which opens another source of federal powers, not less extensive and important, than it is new and unexpected. The examination of this doctrine will be most conveniently connected with a review of a succeeding resolution. The committee satisfy themselves here with briefly remarking, that in all the contemporary discussions and comments which the Constitution underwent, it was constantly justified and recommended, on the ground that the powers not given to the government, were withheld from it; and, that if any doubt could have existed on this subject, under the original text of the Constitution, it is removed, as far as words could remove it, by the 12th amendment, now a part of the Constitution, which expressly declares, "that the powers not delegated to the United States, by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

The other position involved in this branch of the resolution, namely, "that the states are parties to the Constitution or compact, is, in the judgment of the committee, equally free from objection. It is indeed true, that the term 'states,' is sometimes used in a vague sense, and sometimes in different senses, according to the subject to which it is applied. Thus, it sometimes means the separate sections of territory occupied by the political societies within each; sometimes the particular governments, established by those societies; sometimes those societies are organized into those particular governments; and lastly, it means the people composing those political societies, in their highest sovereign capacity. Although it might be wished that the perfection of language admitted less diversity in the signification of the same words, yet little inconvenience is produced by it, where the true sense can be collected with certainty from the different applications. In the present instance, whatever different construction of the term 'states,' in the resolution may have been entertained, all will at least concur in that last mentioned; because in that sense, *the constitution was submitted to the "states," in that sense the "states ratified it: and in that sense of the term "states" they are consequently parties to the compact from which the powers of the Federal Government result.*

The next position is, that the General Assembly views the powers of the Federal Government, "as limited by the plain sense and intention of the instrument constituting that compact," and "*as no farther valid than they are authorized by the grants therein enumerated.*" It does not seem possible, that any just objection can lie against either of these clauses. The first amounts merely to a declaration, that the compact ought to have the interpretation plainly intended by the parties to it; the other to a declaration, that it ought to have the execution and effect intended by them. If the powers granted be valid, it is solely because they are granted; and if the granted powers are valid, because granted, all other powers not granted, must not be valid.

The resolution having taken this view of the Federal compact, proceeds to infer, "*THAT, IN CASE OF A DELIBERATE, PALPABLE, AND DANGEROUS EXERCISE OF OTHER POWERS, NOT GRANTED BY THE SAID COMPACT. THE STATES, WHO ARE PARTIES THERETO, HAVE THE RIGHT AND ARE IN DUTY BOUND TO INTERPOSE FOR ARRESTING THE PROGRESS OF THE EVIL, AND FOR MAINTAINING WITHIN THEIR RESPECTIVE LIMITS, THE AUTHORITIES, RIGHTS, AND LIBERTIES APPERTAINING TO THEM*"

It appears, to your committee to be a plain principle, founded in common sense, illustrated by common practice, and essential to the nature of compacts—that, where resort can be had to NO TRIBUNAL SUPERIOR TO THE AU-



THORITY OF THE PARTIES, THE PARTIES THEMSELVES MUST BE THE RIGHTFUL JUDGES IN THE LAST RESORT, WHETHER THE BARGAIN MADE HAS BEEN PURSUED OR VIOLATED. The constitution of the United States, was formed by the sanction of the States, given by each in its sovereign capacity. It adds to the stability and dignity, as well as to the authority of the constitution, that it rests on this legitimate and solid foundation. *The states, then, being the parties to the constitutional compact, and in their sovereign capacity, it follows of necessity, that there can be no tribunal above their authority, to decide on the last resort, whether the compact made by them be violated; and, consequently, that, as the parties to it, they must themselves decide in the last resort, such questions as may be of sufficient magnitude to require their interposition.*

It does not follow, however, that because the States, as sovereign parties to their constitutional compact, must ultimately decide whether it has been violated, that such a decision ought to be interposed, either in a hasty manner, or on doubtful and inferior occasions. Even in the case of ordinary conventions between different nations, where, by the strict rule of interpretation, a breach of a part may be deemed a breach of the whole; every part being deemed a condition of every other part, and of the whole, it is always laid down that the breach must be both wilful and material to justify an application of the rule. But in the case of an intimate and constitutional union, like that of the United States, it is evident that the interposition of the parties, in their sovereign capacity, can be called for by occasions only, deeply and essentially affecting the vital principles of their political system.

The resolution has, accordingly, guarded against any misapprehension of its object, by expressly requiring for such an interposition, “the case of a *deliberate, palpable, and dangerous* breach of the constitution, by the exercise of powers not granted by it.” It must be a case not of a light and transient nature, but of a nature *dangerous* to the great purposes for which the constitution was established. It must be a case, moreover, not obscure or doubtful in its construction, but plain and *palpable*. Lastly, it must be a case not resulting from a partial consideration, or hasty determination; but a case stamped with a final consideration and *deliberate* adherence. It is not necessary, because the resolution does not require, that the question should be discussed, how far the exercise of any particular power, ungranted by the constitution, would justify the interposition of the parties to it. As cases might easily be stated, which none would contend ought to fall within that description—cases, on the other hand, might with equal ease, be stated, so flagrant and so fatal, as to unite every opinion in placing them within the description.

But the resolution has done more than guard against misconstruction, by expressly referring to cases of a *deliberate, palpable and dangerous* nature. It specifies *the object of the interposition* which it contemplates, to be, *solely* that of ARRESTING THE PROGRESS OF THE EVIL OF USURPATION, AND OF MAINTAINING THE AUTHORITIES, RIGHTS AND LIBERTIES APPERTAINING TO THE STATES, AS PARTIES TO THE CONSTITUTION.

From this view of the resolution, it would seem inconceivable that it can incur any just disapprobation from those, who, laying aside all momentary impressions, and recollecting the genuine source and object of the Federal Constitution, shall candidly and accurately interpret the meaning of the General Assembly. If the deliberate exercise of dangerous powers, palpably withheld by the Constitution, could not justify the parties to it, *in interposing* even so far as to *arrest the progress of the evil*, and thereby TO PRESERVE THE CONSTITUTION ITSELF, as well as to provide for the safety of the parties to it, there would be an end to all relief from usurped power, and a direct subversion of the rights specified or recognised under all the State Constitutions, as well as a plain denial of the fundamental principle on which our independence itself was declared,

But it is objected, that the JUDICIAL AUTHORITY is to be regarded as the *sole expositor of the Constitution in the last resort*; and it may be asked for what reason, the declaration by the General Assembly, supposing it to be theoretically true, could be required at the present day, and in so solemn a manner.

On this objection it might be observed, *first*: that there may be instances of usurped power, which the forms of the Constitution would never draw within the control of the Judicial department: *secondly*, that if the decision of the Judiciary be raised above the authority of the sovereign parties to the Constitution, the decisions of the other departments, not carried by the forms of the Constitution before the Judiciary, must be equally authoritative and final with the decisions of that department. But the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases, in which all the forms of the Constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it. The resolution supposes that dangerous powers not delegated, may not only be usurped and executed by the other departments, but that the Judicial department, also, may exercise or sanction dangerous powers beyond the grant of the Constitution; and, consequently, that the ultimate right of the parties to the Constitution, to judge whether the compact has been dangerously violated, must extend to violations by one delegated authority, as well as by another; by the Judiciary, as well as by the Executive, or the Legislature.

However true, therefore, it may be that the Judicial department is, in all questions submitted to it by the forms of the Constitution, to decide in the last resort, this resort must necessarily be deemed the last in relation to the authorities of the other departments of the Government; not in relation to the rights of the parties to the Constitutional compact, from which the Judicial as well as the other departments hold their delegated trusts. On any other hypothesis, the delegation of Judicial power would annul the authority delegating it; and the concurrence of this department with the others in usurped powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very Constitution, which all were instituted to preserve.

The truth declared in the resolution being established, the expediency of making the declaration at the present day, may safely be left to the temperate consideration and candid judgment of the American public. It will be remembered, that a frequent recurrence to fundamental principles, is solemnly enjoined by most of the State Constitutions, and particularly by our own, as a necessary safeguard against the danger of degeneracy to which Republics are liable, as well as other Governments, though in a less degree than others. And a fair comparison of the political doctrines not unfrequent at the present day, with those which characterized the epoch of our Revolution, and which form the basis of our Republican Constitutions, will best determine whether the declaratory recurrence here made to those principles, ought to be viewed as unseasonable and improper, or as a vigilant discharge of an important duty. The authority of Constitutions over Governments, and of the sovereignty of the people over Constitutions, are truths which are at all times necessary to be kept in mind; and at no time, perhaps, more necessary than at present.

The fourth resolution stands as follows:

“That the General Assembly doth also express its deep regret, that a spirit has in sundry instances, been manifested by the Federal Government, to enlarge its powers by forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases (which, having been copied from the very limited grant of powers in the former articles of confederation, were the less liable to be misconstrued), so as to destroy the meaning and effect of the particular enumeration which necessarily explains, and limits the general phrases; and so as to consolidate the States by degrees, into one sovereignty, the obvious tendency and inevitable result of which would be to transform the present republican system of the United States into an absolute, or at best a mixed monarchy.”

The first question here to be considered is, whether a spirit has in sundry instances been manifested by the Federal government to enlarge its powers by forced constructions of the constitutional charter.



The General Assembly having declared their opinion, merely, by regretting in general terms, that forced constructions for enlarging the Federal powers have taken place, it does not appear to the committee necessary to go into a specification of every instance to which the resolution may allude. The Alien and Sedition acts being particularly named in a succeeding resolution, are of course to be understood as included in the allusion. Omitting others which have less occupied public attention, or been less extensively regarded as unconstitutional, the resolution may be presumed to refer particularly to the Bank Law, which from the circumstances of its passage, as well as the latitude of construction on which it is founded, strikes the attention with singular force, and the carriage tax, distinguished also by circumstances in its history having a similar tendency. Those instances alone, if resulting from forced construction, and calculated to enlarge the powers of the Federal Government, as the committee cannot but conceive to be the case, sufficiently warrant this part of the resolution. The committee have not thought it incumbent on them to extend their attention to laws which have been objected to, rather as varying the constitutional distribution of powers in the Federal Government, than as an absolute enlargement of them; because instances of this sort, however important in their principles and tendencies, do not appear to fall strictly within the text under review.

The other questions presenting themselves, are—1. Whether indications have appeared of a design to expound certain general phrases copied from the "Articles of Confederation," so as to destroy the effect of the particular enumeration explaining and limiting their meaning. 2. Whether this exposition would by degrees consolidate the States into one sovereignty. 3. Whether the tendency and result of this consolidation would be to transform the republican system of the U. States into a monarchy.

1. The general phrases here meant must be those "of providing for the common defence and general welfare."

In the "Articles of Confederation" the phrases are used as follows, in Art. VIII. "All charges of war, and all other expences that shall be incurred for the common defence and general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to, or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in Congress assembled, shall from time direct and appoint."

In the existing Constitution, they make the following part of Sec. 8: "The Congress shall have power, to lay and collect taxes, duties, imposts and excises, to pay the debts, and provide for the common defence and general welfare of the United States."

This similarity in the use of these phrases in the two great Federal charters, might well be considered, as rendering their meaning less liable to be misconstrued in the latter: because it will scarcely be said, that in the former, they were ever understood to be either a general grant of power, or to authorize the requisition or application of money by the old Congress to the common defence and general welfare, except in cases afterwards enumerated, which explained and limited their meaning; and if such was the limited meaning attached to these phrases in the very instrument revised and remodeled by the present Constitution, it can never be supposed that when copied into this Constitution, a different meaning ought to be attached to them.

That, notwithstanding this remarkable security against misconstruction, a design has been indicated to expound these phrases in the Constitution, so as to destroy the effect of the particular enumeration of powers by which it explains and limits them, must have fallen under the observation of those who have attended to the course of public transactions. Not to multiply proofs on this subject, it will suffice to refer to the debates of the Federal Legislature, in which arguments have on different occasions been drawn, with apparent effect, from these phrases, in their indefinite meaning.

To these indications might be added, without looking farther, the official report on manufactures by the late Secretary of the Treasury, made on the 5th of December, 1791; and the report of a Committee of Congress, in January, 1797, on the promotion of agriculture. In the first of these it is expressly contended to belong "to the discretion of the National Legislature to pronounce upon the objects which concern the *general welfare*, and for which, under that description, an appropriation of money is requisite and proper. And there seems to be no room for doubt, that whatever concerns the general interests of LEARNING, of AGRICULTURE, of MANUFACTURES, and of COMMERCE, are within the sphere of National Councils, as far as regards an application of money." The latter report assumes the same latitude of power in the National Councils, and applies it to the encouragement of agriculture, by means of a society to be established at the seat of Government. Although neither of these reports may have received the sanction of a law carrying it into effect; yet, on the other hand, the extraordinary doctrine contained in both, has passed without the slightest positive mark of disapprobation from the authority to which it was addressed.

Now, whether the phrases in question be construed to authorize every measure relating to the common defence and general welfare, as contended by some; or every measure only in which there might be an application of money, as suggested by the caution of others; the effect must substantially be the same, in destroying the import and force of the particular enumeration of powers which follow these general phrases in the Constitution. For, it is evident, that there is not a single power whatever, which may not have some reference to the common defence, or the general welfare; nor a power of any magnitude, which, in its exercise, does not involve or admit an application of money. The Government, therefore, which possesses power in either one or other of these extents, is a Government without the limitations formed by a particular enumeration of powers; and consequently, the meaning and effect of this particular enumeration, is destroyed by the exposition given to these general phrases.

This conclusion will not be affected by an attempt to qualify the power over the "general welfare," by referring it to cases where the *general welfare* is beyond the reach of the *separate pro-*

visions by the *individual States*; and leaving to these their jurisdictions in cases, to which their separate provisions may be competent. For, as the authority of the individual States must in all cases be incompetent to general regulations operating through the whole, the authority of the U. States would be extended to every object relating to the general welfare, which might, by any possibility, be provided for by the general authority. This qualifying construction, therefore, would have little, if any tendency, to circumscribe the power claimed under the latitude of the terms "general welfare."

The true and fair construction of this expression, both in the original and existing Federal compact, appears to the Committee too obvious to be mistaken. In both, the Congress is authorized to provide money for the common defence and *general welfare*. In both, is subjoined to this authority, an enumeration of the cases, to which their powers shall extend. Money cannot be applied to the *general welfare*, otherwise than by an application of it to some *particular* measure, conducive to the general welfare. Whenever, therefore, money has been raised by the general authority, and is to be applied to a particular measure, a question arises whether the particular measure be within the enumerated authorities vested in Congress. If it be, the money requisite for it, may be applied to it; if it be not, no such application can be made. This fair and obvious interpretation coincides with, and is enforced by, the clause in the Constitution, which declares, that "no money shall be drawn from the treasury, but in consequence of appropriations made by law." An appropriation of money to the general welfare, would be deemed rather a mockery than an observance of this Constitutional injunction.

2. Whether the exposition of the general phrases here combated, would not, by degrees, consolidate the States into one sovereignty, is a question, concerning which the Committee can perceive little room for difference of opinion. To consolidate the States into one sovereignty, nothing more can be wanted than to supersede their respective sovereignties in the cases reserved to them, by extending the sovereignty of the United States, to all cases of the "general welfare," that is to say, to *all cases whatever*.

3. That the obvious tendency and inevitable result of a consolidation of the States into one sovereignty, would be to transform the republican system of the United States into a monarchy, is a point which seems to have been sufficiently decided by the general sentiment of America. In almost every instance of discussion relating to the consolidation in question, its certain tendency to pave the way to monarchy, seems not to have been contested. The prospect of such a consolidation has formed the only topic of controversy. It would be unnecessary, therefore, for the committee to dwell long on the reasons which support the position of the General Assembly. It may not be improper, however, to remark two consequences, evidently flowing from an extension of the Federal power to every subject falling within the idea of the "general welfare."

One consequence must be to enlarge the sphere of discretion allotted to the Executive Magistrate. Even within the legislative limits properly defined by the Constitution, the difficulty of accommodating legal regulations to a country so great in extent, and so various in its circumstances, has been much felt; and has led to occasional investments of power in the Executive, which involve perhaps as large a portion of discretion as can be deemed consistent with the nature of the Executive trust. In proportion as the objects of legislative care might be multiplied, would the time allowed for each be diminished, and the difficulty of providing uniform and particular regulations for all, be increased. From these sources would necessarily ensue a greater latitude to the agency of that department which is always in existence, and which could best mould regulations of a general nature, so as to suit them to the diversity of particular situations. And it is in this latitude, as a supplement to the deficiency of the laws, that the degree of Executive prerogative materially consists.

The other consequence would be, that of an excessive augmentation of the offices, honors, and emoluments depending on the Executive will. Add to the present legitimate stock all those of every description which a consolidation of the States would take from them, and turn over to the Federal Government, and the patronage of the Executive would necessarily be as much swelled in this case as its prerogative would be in the other.

This disproportionate increase of prerogative and patronage, must evidently either enable the Chief Magistrate of the Union, by quiet means, to secure his re-election from time to time, and finally, to regulate the succession as he might please; or, by giving so transcendent an importance to the office, would render the elections to it so violent and corrupt, that the public voice itself might call for an hereditary, in place of an elective succession. Which ever of these events might follow, the transformation of the republican system of the United States into a monarchy, anticipated by the General Assembly from a consolidation of the States into one sovereignty, would be equally accomplished; and whether it would be into a mixed or an absolute monarchy, might depend on too many contingencies to admit of any certain foresight.

The resolution next in order is contained in the following terms:

"That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the "Alien and Sedition Acts," passed at the last session of Congress; the first of which exercises a power no where delegated to the Federal Government; and which, by uniting legislative and judicial powers to those of executive, subverts the general principles of free government, as well as the particular organization and positive provisions of the Federal Constitution, and the other of which acts exercises, in like manner, a power not delegated by the Constitution, but, on the contrary, expressly and positively forbidden by one of the amendments thereto; a power, more than any other, ought to produce universal alarm; because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right."

The subject of this resolution, having, it is presumed, more particularly led the General Assembly into the proceedings which they communicated to the other States, and being in itself of peculiar importance, it deserves the most critical and faithful investigation; for the length of which no other apology will be necessary.



The subject divides itself into *first*,

"The Alien Act," *secondly*, "The Sedition Act."

Of the "Alien Act," it is affirmed by the resolution, 1st. That it exercises a power nowhere delegated to the Federal Government. 2d. That it unites legislative and judicial powers to those of the executive. 3d. That this union of power subverts the general principles of free government. 4. That it subverts the particular organization and positive provisions of the Federal Constitution.

In order to clear the way for a correct view of the first position, several observations will be premised.

In the first place, it is to be borne in mind, that it being a characteristic feature of the Federal Constitution, as it was originally ratified, and an amendment thereto having precisely declared, "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," it is incumbent in this, as in every other exercise of power by the Federal Government, to prove from the Constitution, that it grants the particular power exercised.

The next observation to be made is, that much confusion and fallacy have been thrown into the question, by blending the two cases of *aliens, members of a hostile nation; and aliens, members of friendly nations*. These two cases are so obviously and so essentially distinct, that it occasions no little surprise that the distinction should have been disregarded; and the surprise is so much the greater, as it appears that the two cases are actually distinguished by two separate acts of Congress, passed at the same session, and comprised in the same publication; the one providing for the case of "alien enemies;" the other "concerning aliens" indiscriminately, and consequently extending to aliens of every nation in peace and amity with the United States. With respect to alien enemies, no doubt has been intimated as to the federal authority over them; the constitution having expressly delegated to Congress the power to declare war against any nation, and of course to treat it and all its members as enemies. With respect to aliens who are not enemies, but members of nations in peace and amity with the United States, the power assumed by the act of Congress, is denied to be constitutional; and it is accordingly against this act that the protest of the General Assembly is expressly and exclusively directed.

A third observation is, that were it admitted, as is contended that the "act concerning aliens," has for its object, not a *penal*, but a *preventive* justice, it would still remain to be proved that it comes within the constitutional power of the federal legislature; and if within its power, that the legislature has exercised it in a constitutional manner.

In the administration of preventive justice, the following principles have been held sacred; that some probable ground of suspicion be exhibited before some judicial authority; that it be supported by oath or affirmation; that the party may avoid being thrown into confinement, by finding pledges or sureties for his legal conduct sufficient in the judgement of some judicial authority that he may have the benefit of a writ of habeas corpus, and thus obtain his release, if wrongfully confined; and that he may at any time be discharged from his recognizance, or his confinement, and restored to his former liberty and rights, on the order of the proper judicial authority, if it shall see sufficient cause.

All these principles of the only preventive justice known to American jurisprudence, are violated by the alien act. The ground of suspicion is to be judged of not by any judicial authority, but by the Executive Magistrate alone: no oath or affirmation is required; if the suspicion be held reasonable by the President, he may order the suspected alien to depart from the territory of the United States, without the opportunity of avoiding the sentence, by finding pledges for his future good conduct; as the President may limit the time of departure as he pleases, the benefit of the writ of habeas corpus, may be suspended with respect to the party, although the constitution ordains, that it shall not be suspended, unless when the public safety may require it in case of rebellion or invasion, neither of which existed at the passage of the act; and the party, being under the sentence of the President, either removed from the United States, or being punished by imprisonment, or disqualification ever to become a citizen on conviction of not obeying the order of removal, he cannot be discharged from the proceedings against him, and restored to the benefits of his former situation, although the *highest judicial authority* should see the most sufficient cause for it.

But, in the last place, it can never be admitted that the removal of aliens, authorized by the act, is to be considered, not as punishment for an offence, but as a measure of precaution and prevention. If the banishment of an alien from a country into which he has been invited, as the asylum most auspicious to his happiness: a country where he may have formed the most tender connexions; where he may have invested his entire property, and acquired property of the real and permanent, as well as the moveable and temporary kind; where he enjoys under the laws, a greater share of the blessings of personal security, and personal liberty, than he can elsewhere hope for; and where he may have nearly completed his probationary title to citizenship; if, moreover, in the execution of the sentence against him, he is to be exposed, not only to the ordinary dangers of the sea, but to the peculiar casualties incident to a crisis of war, and of unusual licentiousness on that element, and possibly to vindictive purposes which his emigration itself may have provoked; if a banishment of this sort be not a punishment, and among the severest of punishments, it will be difficult to imagine a doom to which the name can be applied. And if it be a punishment, it will remain to be inquired, whether it can be constitutionally inflicted, on mere suspicion, by the single will of the Executive Magistrate, on persons convicted of no personal offence against the laws of the land, nor involved in any offence against the law of nations, charged on the foreign state of which they are members.

One argument offered in justification of this power exercised over aliens, is, that the admission of them into the country being of favor, not of right, the favor is at all times revocable.

To this argument it might be answered, that allowing the truth of the inference, it would be on proof of what is required. A question would still occur, whether the constitution had vested

the discretionary power of admitting aliens, in the federal government or in the State governments.

But it cannot be a true inference, that because the admission of an alien is a favor, the favor may be revoked at pleasure. A grant of land to an individual may be of favor, not of right; but the moment the grant is made the favor becomes a right, and must be forfeited before it can be taken away. To pardon a malefactor may be a favor, but the pardon is not, on that account, the less irrevocable. To admit an alien to naturalization, is as much a favor as to admit him to reside in the country, yet it cannot be pretended, that a person naturalized can be deprived of the benefits any more than a native citizen can be disfranchised.

Again, it is said, that aliens not being parties to the constitution, the rights and privileges which it secures, cannot be at all claimed by them.

To this reasoning also, it might be answered, that although aliens are not parties to the constitution, it does not follow that the constitution has vested in Congress an absolute power over them. The parties to the constitution may have granted, or retained, or modified the power over aliens, without regard to that particular consideration.

But a more direct reply is, that it does not follow, because aliens are not parties to the constitution, as citizens are parties to it, that whilst they actually conform to it, they have no right to its protection. Aliens are not more parties to the laws than they are parties to the constitution; yet, it will not be disputed, that as they owe on one hand a temporary obedience they are entitled in return to their protection and advantage.

If aliens had no rights under the constitution they might not only be banished, but even capitally punished, without a jury or the other incidents to a fair trial. But so far has a contrary principle been carried, in every part of the United States, that except on charges of treason, an alien has, besides all the common privileges, the special one of being tried by a jury, of which one-half may be also aliens.

It is said, further, that by the law and practice of nations, aliens may be removed at discretion for offences against the law of nations; that Congress are authorized to define and punish such offences; and that to be dangerous to the peace of society is, in aliens, one of those offences.

The distinction between alien enemies and alien friends, is a clear and conclusive answer to this argument. Alien enemies are under the law of nations, and liable to be punished for offences against it. Alien friends, except in the single case of public ministers, are under the municipal law, and must be tried and punished according to that law only.

This argument also, by referring the alien act, to the power of Congress to define and punish offences against the law of nations, yields the point that the act is of a *penal*, not merely by a preventive operation. It must, in truth, be so considered. And if it be a penal act, the punishment it inflicts, must be justified by some offence that deserves it.

Offences for which aliens, within the jurisdiction of a country, are punishable, are first, offences committed by the nation of which they make a part, and in whose offences they are involved. Secondly, offences committed by themselves alone, without any charge against the nation to which they belong. The first is the case of alien enemies; the second the case of alien friends. In the first case, the offending nation can no otherwise be punished than by war, one of the laws of which authorizes the expulsion of such of its members, as may be found within the country, against which the offence has been committed. In the second case, the offence being committed by the individual, not by his nation, and against the municipal law, not against the law of nations; the individual only, and not the nation, is punishable; and the punishment must be conducted according to the municipal law, not according to the law of nations. Under this view of the subject, the act of Congress for the removal of alien enemies, being conformable to the law of nations, is justified by the Constitution; and the "act" for the removal of alien friends, being repugnant to the constitutional principles of municipal law, is unjustifiable.

Nor is the act of Congress for the removal of alien friends, more agreeable to the general practice of nations, than it is within the purview of the law of nations. The general practice of nations distinguishes between alien friends and alien enemies. The latter it has proceeded against according to the law of nations, by expelling them as enemies. The former it has considered as under a local and temporary allegiance, and entitled to a correspondent protection. If contrary instances are to be found in barbarous countries, under undefined prerogatives, or amid revolutionary dangers, they will not be deemed fit precedents for the government of the United States, even if not beyond its constitutional authority.

It is said that Congress may grant letters of marque and reprisal; that reprisals may be made on persons as well as property; and that the removal of Aliens may be considered as the exercise in an inferior degree, of the general power of reprisal on persons.

Without entering minutely into a question that does not seem to require it, it may be remarked that reprisal is a seizure of foreign persons or property, with a view to obtain that justice for injuries done by one State or its members, to another State or its members; for which a refusal of the aggressors requires such a resort to force under the law of nations. It must be considered as an abuse of words, to call the removal of persons from a country, a seizure or a reprisal on them: nor is the distinction to be overlooked between reprisals on persons within the country and under the faith of its laws, and on persons out of the country. But laying aside these considerations, it is evidently impossible to bring the alien act within the power of granting reprisals; since it does not allege or imply any injury received from any particular nation, for which this proceeding against its members was intended as a reparation.

The proceeding is authorized against aliens of *every nation*; of nations charged neither with any similar proceedings against American citizens, nor with any injuries for which justice might be sought, in the mode prescribed by the act. Were it true, therefore, that good causes existed for reprisals against one or more foreign nations, and that neither the persons nor property of its members, under the faith of our laws, could plead an exemption; the operation of the act ought to have been limited to the aliens among us, belonging to such nations. To license reprisals



against all nations, for aggressions charged on one only, would be a measure as contrary to every principle of justice and public law, as to a wise policy, and the universal practice of nations.

It is said, that the right of removing aliens, is an incident to the power of war, vested in Congress by the Constitution.

This is a former argument in a new shape only; and is answered by repeating, that the removal of alien enemies is an incident to the power of war; that the removal of alien friends is not an incident to the power of war.

It is said, that Congress are by the Constitution to protect each State against invasion; and that the means of *preventing* invasion are included in the power of protection against it.

The power of war, in general, having been before granted by the Constitution, this clause must either be a mere specification for greater caution and certainty of which there are other examples in the instrument; or be the injunction of a duty, superadded to a grant of the power. Under either explanation, it cannot enlarge the powers of Congress on the subject. The power and the duty to protect each State against an invading enemy, would be the same under the general power, if this regard to greater caution had been omitted.

Invasion is an operation of war. To protect against invasion is an exercise of the power of war. A power, therefore, not incident to war, cannot be incident to a particular modification of war. And as the removal of alien friends has appeared to be no incident to a general state of war, it cannot be incident to a partial state, or a particular modification of war.

Nor can it ever be granted, that a power to act on a case when it actually occurs, includes a power over all the means that may *tend to prevent* the occurrence of the case. Such a latitude of construction would render unavailing, every practical definition of particular and limited powers. Under the idea of preventing war in general, as well as invasion in particular, not only an indiscriminate removal of all aliens might be enforced, but a thousand other things still more remote from the operations and precautions appurtenant to war, might take place. A bigoted or tyrannical nation might threaten us with war, unless certain religious or political regulations were adopted by us; yet it never could be inferred, if the regulations which would prevent war, were such as Congress had otherwise no power to make, that the power to make them would grow out of the purpose they were to answer. Congress have power to suppress insurrections, yet it would not be allowed to follow, that they might employ all the means tending to prevent them: of which a system of moral instruction for the ignorant, and of provident support for the poor, might be regarded as among the most efficacious.

One argument for the power of the General Government to remove aliens, would have been passed in silence, if it had appeared under any authority inferior to that of a report; made during the last session of Congress, to the House of Representatives by a committee, and approved by the House. The doctrine on which this argument is founded, is of so new and so extraordinary a character, and strikes so radically at the political system of America; that it is proper to state it in the very words of the report.

"The act [concerning aliens] is said to be unconstitutional, because to remove aliens, is a direct breach of the Constitution, which provides, by the 9th section of the 1st article: that the migration or importation of such persons as any of the States shall think proper to admit, shall not be prohibited by the Congress, prior to the year 1808.

Among the answers given to this objection to the constitutionality of the act, the following very remarkable one is extracted:

"Thirdly, that as the constitution has *given to the States* no power to remove aliens, during the period of the limitation under consideration, in the mean time, on the construction assumed, there would be no authority in the country, empowered to send away dangerous aliens, which cannot be admitted.

The reasoning here used, would not in any view, be conclusive, because there are powers exercised by most other governments, which, in the United States are withheld by the people, both from the General Government and from the State Governments. Of this sort are many of the powers prohibited by the declarations of right prefixed to the Constitutions, or by the clauses in the Constitutions, in the nature of such declarations. Nay, so far is the political system of the United States distinguishable from that of other countries, by the caution with which powers are delegated and defined, that in one very important case, even of commercial regulation and revenue, the power is absolutely locked up against the hands of both Governments. A tax on exports can be laid by no constitutional authority whatever. Under a system thus peculiarly guarded, there could surely be no absurdity in supposing that alien friends, who if guilty of treasonable machinations may be punished, or if suspected on probable grounds, may be secured by pledges or imprisonment, in like manner with permanent citizens, were never meant to be subjected to banishment by an arbitrary and unusual process, either under the one government, or the other.

But, it is not the inconclusiveness of the general reasoning in this passage, which chiefly calls the attention to it. It is the principle assumed by it, that the powers held by the States, are given to them by the Constitution of the United States; and the inference from this principle, that the powers supposed to be necessary which are not so given to the State Governments, must reside in the Government of the United States.

The respect which is felt for every portion of the constituted authorities, forbids some of the reflections which this singular paragraph might excite; and they are the more readily suppressed, as it may be presumed, which justice perhaps, as well as candor, that inadvertence may have had its share in the error. It would be an unjustifiable delicacy, nevertheless, to pass by so portentous a claim, proceeding from so high an authority, without a monitory notice of the fatal tendencies with which it would be pregnant.

Lastly, it is said, that a law on the same subject with the alien act, passed by this State originally in 1785, and re-enacted in 1792, is a proof that a summary removal of suspected aliens, was not heretofore regarded by the Virginia Legislature as liable to the objections now urged against, such a measure.

This charge against Virginia vanishes before the simple remark, that the law of Virginia relates to "suspicious persons, being the subject of any foreign power or state, who shall have made a declaration of war, or actually commenced hostilities, or from whom the President shall apprehend hostile designs; whereas the act of Congress relates to aliens, being the subjects of foreign powers and states, who have neither declared war nor commenced hostilities; nor from whom hostile dangers are apprehended."

II. It is next affirmed of the Alien act, that it unites legislative, judicial, and executive powers in the hands of the President.

However difficult it may be to mark, in every case, with clearness and certainty, the line which divides Legislative power from the other departments of power; all will agree, that the powers referred to these departments may be so general and undefined, as to be of a Legislative, not of an Executive or Judicial nature; and may for that reason be unconstitutional. Details to a certain degree, are essential to the nature and character of a law; and on criminal subjects, it is proper, that details should leave as little as possible to the discretion of those who are to apply and execute the law. If nothing more were required, in exercising a Legislative trust, than a general conveyance of authority, without laying down any precise rules, by which the authority conveyed, should be carried into effect, it would follow, that the whole power of legislation might be transferred by the Legislature from itself, and proclamations might become substitutes for laws. A delegation of power in this latitude, would not be denied to be a union of the different powers.

To determine, then, whether the appropriate powers of the distinct departments are united by the act authorizing the Executive to remove aliens, it must be inquired whether it contains such details, definitions and rules, as appertain to the true character of a law; especially, a law by which personal liberty is invaded, property deprived of its value to the owner, and life itself indirectly exposed to danger.

The Alien act declares, "that it shall be lawful for the President to order all such aliens as he shall judge *dangerous* to the peace and safety of the United States, or shall have reasonable ground to *suspect*, are concerned in any treasonable, or *secret machinations* against the government thereof, to depart," &c.

Could a power be well given in terms less definite, less particular, and less precise? To be *dangerous to the public safety*; to be *suspected of secret machination* against the Government: these can never be mistaken for legal rules or certain definitions. They leave every thing to the President. His will is the law.

But, it is not a Legislative power only that is given to the president. He is to stand in the place of the Judiciary also. His suspicion is the only evidence which is to convict: his order, the only judgment which is to be executed.

Thus, it is the President whose will is to designate the offensive conduct; it is his will that is to ascertain the individuals on whom it is charged; and it is his will that is to cause the sentence to be executed. It is rightly affirmed, therefore, that the act unites Legislative and Judicial powers to those of the Executive.

III. It is affirmed, that this union of power subverts the general principle of free government. It has become an axiom in the science of government, that a separation of the Legislative, Executive, and Judicial departments, is necessary to the preservation of public liberty. Nowhere has this axiom been better understood in theory, or more carefully pursued in practice, than in the United States.

IV. It is affirmed that such a union of powers subverts the particular organization and positive provisions of the Federal Constitution.

According to the particular organization of the Constitution, its Legislative powers are vested in the Congress, its Executive powers in the President, and its Judicial powers in a supreme and inferior tribunals. The union of any two of these powers, and still more of all three, in any one of these departments, as has been shown to be done by the Alien act, must consequently subvert the constitutional organization of them.

That positive provisions, in the Constitution, securing to individuals the benefits of fair trial, are also violated by the union of powers in the Alien act, necessarily results from the two facts, that the act relates to alien friends, and that alien friends being under the municipal law only, are entitled to its protection.

The second object against which the resolution protests, is the Sedition act.

Of this act it is affirmed, 1. That it exercises in like manner a power not delegated by the Constitution. 2. That the power, on the contrary, is expressly and positively forbidden by one of the amendments to the Constitution. 3. That this is a power, which more than any other ought to produce universal alarm; because it is levelled against that right of freely examining public characters and measures, and of free communication thereon, which has ever been justly deemed the only effectual guardian of every other right.

1. That it exercises a power not delegated by the Constitution.

Here, again, it will be proper to recollect, that the Federal Government being composed of powers specifically granted with a reservation of all others to the States or to the people, the positive authority under which the Sedition act could be passed must be produced by those who assert its constitutionality. In what part of the Constitution, then, is this authority to be found?

Several attempts have been made to answer this question, which will be examined in their order. The committee will begin with one, which has filled them with equal astonishment and apprehension; and which, they cannot but persuade themselves, must have the same effect on all, who will consider it with coolness and impartiality, and with a reverence for our Constitution, in the true character in which it issued from the sovereign authority of the people. The committee refer to the doctrine lately advanced as a sanction to the Sedition act, "that the common or unwritten law," a law of vast extent and complexity, and embracing almost every possible subject of legislation, both civil and criminal, makes a part of the law of these States, in their united and national capacity.



The novelty, and, in the judgment of the committee, the extravagance of this pretension, would have consigned it to the silence, in which they have passed by other arguments, which an extraordinary zeal for the act has drawn into the discussion; but the auspices under which this innovation presents itself, have constrained the committee to bestow on it an attention, which other considerations might have forbidden.

In executing the task, it may be of use to look back to the colonial state of this country, prior to the Revolution; to trace the effect of the Revolution which converted the colonies into independent States; to inquire into the import of the articles of confederation, the first instrument by which the union of the States was regularly established; and, finally, to consult the Constitution of 1787, which is the oracle that must decide the important question.

In the state prior to the Revolution, it is certain that the common law, under different limitations, made a part of the colonial codes. But whether it be understood that the original colonists brought the law with them, or made it their law by adoption, it is equally certain, that it was the separate law of each colony within its respective limits, and was unknown to them, as a law pervading and operating through the whole, as one society.

It could not possibly be otherwise. The common law was not the same in any two of the colonies; in some the modifications were materially and extensively different. There was no common Legislature, by which a common will could be expressed in the form of a law; nor any common magistracy, by which such a law could be carried into practice. The will of each colony, alone and separately, had its organs for these purposes.

This stage of our political history furnishes no foothold for the patrons of this new doctrine.

Did, then, the principle or operation of the great event which made the colonies independent States, imply or introduce the common law, as a law of the Union?

The fundamental principle of the Revolution was, that the colonies were co-ordinate members with each other, and with Great Britain, of an empire, united by a common executive sovereign, but not united by any common legislative sovereign. The legislative power was maintained to be as complete in each American parliament, as in the British parliament. And the royal prerogative was in force in each colony, by virtue of its acknowledging the King for its executive magistrate, as it was in Great Britain, by virtue of a like acknowledgment there. A denial of these principles by Great Britain, and the assertion of them by America, produced the Revolution.

There was a time, indeed, when an exception to the legislative separation of the several component and co-equal parts of the empire, obtained a degree of acquiescence. The British Parliament was allowed to regulate the trade with foreign nations, and between the different parts of the empire. This was, however, mere practice without right, and contrary to the true theory of the Constitution. The convenience of some regulations, in both cases, was apparent; and, as there was no Legislature with power over the whole, nor any constitutional pre-eminence among the Legislatures of the several parts, it was natural for the Legislature of that particular part which was the eldest and the largest, to assume this function, and for the others to acquiesce in it. This tacit arrangement was the less criticised, as the regulations established by the British Parliament operated in favor of that part of the empire, which seemed to bear the principal share of the public burdens, and were regarded as an indemnification of its advances for the other parts. As long as this regulating power was confined to the two objects of convenience and equity, it was not complained of, nor much inquired into. But, no sooner was it perverted to the selfish views of the party assuming it, than the injured parties began to feel and to reflect; and the moment the claim to a direct and indefinite power was ingrafted on the precedent of the regulating power, the whole charn was dissolved, and every eye opened to the usurpation. The assertion by Great Britain of a power to make laws for the other members of the empire in *all cases whatsoever*, ended in the discovery, that she had a right to make laws for them in *no cases whatsoever*.

Such being the ground of our Revolution, no support nor color can be drawn from it, for the doctrine that the common law is binding on these States as one society. The doctrine, on the contrary, is evidently repugnant to the fundamental principle of the Revolution.

The articles of confederation are the next source of information on this subject.

In the interval between the commencement of the Revolution and the final ratification of these articles, the nature and extent of the Union was determined by the circumstances of the crisis, rather than by an accurate delineation of the general authority. It will not be alleged, that the "common law" could have any legitimate birth as a law of the United States during that state of things. If it came as such into existence at all, the charter of confederation must have been its parent.

Here, again, however its pretensions are absolutely destitute of foundation. This instrument does not contain a sentence or a syllable that can be tortured into a countenance of the idea, that the parties to it were, with respect to the objects of the common law, to form one community. No such law is named, or implied, or alluded to, as being in force, or as brought into force by that compact. No provision is made by which such a law could be carried into operation; whilst, on the other hand, every such inference or pretext is absolutely precluded by article 2, which declares "that each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States, in Congress assembled."

Thus far it appears, that not a vestige of this extraordinary doctrine can be found in the origin or progress of American institutions. The evidence against it has, on the contrary, grown stronger at every step, till it has amounted to a formal and positive exclusion, by written articles of compact among the parties concerned.

Is this exclusion revoked, and the common law introduced as national law, by the present Constitution of the United States? This is the final question to be examined.

It is readily admitted, that particular parts of the common law may have a sanction from the Constitution, so far as they are necessarily comprehended in the technical phrases which express the powers delegated to the Government; and so far, also, as such other parts may be adopted

by Congress as necessary and proper for carrying into execution the powers expressly delegated. But, the question does not relate to either of these portions of the common law. It relates to the common law beyond these limitations.

The only part of the Constitution which seems to have been relied on in this case, is the 2d section of Article III. "The Judicial power shall extend to all cases, *in law and equity*, arising under this Constitution, the laws of the United States, and Treaties made or which shall be made under their authority."

It has been asked, what cases, distinct from those arising under the laws and treaties of the United States, can arise under the Constitution, other than those arising under the common law; and it is inferred, that the common law is accordingly adopted or recognized by the Constitution.

Never, perhaps, was so broad a construction applied to a text so clearly unsusceptible of it. If any color for the inference could be found, it must be in the impossibility of finding any other cases in law and equity, within the provisions of the Constitution, to satisfy the expression; and rather than resort to a construction affecting so essentially the whole character of the Government, it would perhaps be more rational to consider the expression as a mere pleonasm or inadvertence. But it is not necessary to decide on such a dilemma. The expression is fully satisfied, and its accuracy justified by two descriptions of cases, to which the judicial authority is extended, and neither of which implies that the common law is the law of the U. S. One of these descriptions comprehends the cases growing out of the restrictions on the legislative power of the States. For example, it is provided that "no State shall emit bills of credit," or "make any thing but gold and silver coin a tender in payment of debts." Should this prohibition be violated, and a suit *between citizens of the same State* be the consequence, this would be a case arising under the Constitution before the Judicial power of the United States. A second description comprehends suits between citizens and foreigners, of citizens of different States, to be decided according to the State or foreign laws; but submitted by the Constitution to the Judicial power of the United States; the Judicial power being, in several instances, extended beyond the legislative power of the United States.

To this explanation of the text, the following observations may be added:

The expression, "cases in law and equity," is manifestly confined to cases of a civil nature, and would exclude cases of criminal jurisdiction. Criminal cases in law and equity would be a language unknown to the law.

The succeeding paragraph in the same section is in harmony with this construction. It is in these words: "In all cases affecting Ambassadors, or other public ministers and Consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases [including cases of law and equity arising under the Constitution] the Supreme Court shall have *appellate* jurisdiction both as to law and *fact*; with such exceptions, and under such regulations, as Congress shall make."

This paragraph, by expressly giving an *appellate* jurisdiction, in cases of law and equity arising under the Constitution, to *fact*, as well as to law, clearly excludes criminal cases, where the trial by jury is secured; because the fact in such cases, is not a subject of appeal. And, although the appeal is liable to such *exceptions* and regulations as Congress may adopt, yet it is not to be supposed that an *exception* of all criminal cases could be contemplated; as well because a discretion in Congress to make or omit the exception would be improper, as because it would have been unnecessary. The exception could as easily have been made by the Constitution itself, as as referred to the Congress.

Once more; the amendment last added to the Constitution, deserves attention as throwing light on this subject. "The Judicial power of the United States shall not be construed to extend to any suit in *law or equity*, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign power." As it will not be pretended that any criminal proceeding could take place against a state, the terms *law or equity*, must be understood as appropriate to *civil*, in exclusion of *criminal* cases.

From these considerations, it is evident that this part of the Constitution, even if it could be applied at all to the purpose for which it has been cited, would not include any cases whatever of a criminal nature; and consequently would not authorize the inference from it, that the judicial authority extends to *offences* against the common law, as offences arising under the Constitution.

It is further to be considered, that even if this part of the Constitution could be strained into an application to every common law case, criminal as well as civil, it could have no effect in justifying the Sedition Act; which is an act of legislative and not of judicial power: and it is the judicial power only of which the extent is defined in this part of the Constitution.

There are two passages in the Constitution, in which a description of the law of the United States is found. The first is contained in Art. III. Sec. 3, in the words following: "This Constitution, the laws of the United States, and treaties made, or which shall be made, under this authority." The second is contained in the second paragraph of Article VI, as follows: "This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." The first of these descriptions was meant as a guide to the Judges of the United States; the second as a guide to the Judges of the several States. Both of them consist of an enumeration, which was evidently meant to be precise and complete. If the common law had been understood to be a law of the United States, it is not possible to assign a satisfactory reason why it was not expressed in the enumeration.

In aid of these objections, the difficulties and confusion inseparable from a constructive introduction of the common law, would afford powerful reasons against it.

Is it to be the common law with, or without the British Statutes?

If without the statutory amendments, the vices of the code would be insupportable.

If with these amendments, what period is to be fixed for limiting the British authority over our laws?

Is it to be the date of the eldest or the youngest of the colonies?



Or are the dates to be thrown together, and a medium deduced?

Or is our independence to be taken for the date?

Is, again, regard to be had to the various changes in the common law made by the local codes of America?

Is regard to be had to such changes, subsequent, as well as prior, to the establishment of the Constitution?

Is regard to be had to future, as well as past changes?

Is the law to be different in every State, as differently modified by its code; or are the modifications of any particular State to be applied to all?

And on the latter supposition, which among the State codes form the standard?

Questions of this sort might be multiplied with as much ease as there would be difficulty in answering them.

These consequences flowing from the proposed construction, furnish other objections equally conclusive: unless the text were peremptory in its meaning, and consistent with other parts of the instrument.

These consequences may be in relation to the legislative authority of the United States; to the executive authority; to the judicial authority; and to the Governments of the several States.

If it be understood that the common law is established by the Constitution, it follows that no part of the law can be altered by the Legislature; such of the statutes already passed as may be repugnant thereto, would be nullified: particularly the "Sedition act" itself, which boasts of being a melioration of the common law; and the whole code, with all its incongruities, barbarisms, and bloody maxims, would be inviolably saddled on the good people of the United States.

Should this consequence be rejected, and the common law be held, like other laws, liable to revision and alteration, by the authority of Congress, it then follows that the authority of Congress is co-extensive with the objects of common law; that is to say, with every object of legislation: for to every such object does some branch or other of the common law extend. The authority of Congress would, therefore, be no longer under the limitations marked out in the Constitution. They would be authorized to legislate in all cases whatsoever.

In the next place, as the President possesses the executive powers of the Constitution, and is to see that the laws be faithfully executed, his authority also must be co-extensive with every branch of the common law. The additions which this would make to his power, though not readily to be estimated, claim the most serious attention.

This is not all: it will merit the most profound consideration, how far an indefinite admission of the common law, with a latitude in construing it, equal to the construction by which it is deduced from the Constitution, might draw after it the various prerogatives, making part of the unwritten law of England. The English Constitution itself is nothing more than a composition of unwritten laws and maxims.

In the third place, whether the common law be admitted as of legal or of constitutional obligation, it would confer on the judicial department a discretion little short of a legislative power.

On the supposition of its having a constitutional obligation, this power in the judges would be permanent and irremediable by the legislature. On the other supposition, the power would not expire until the legislature should have introduced a full system of statutory provisions. Let it be observed, too, that besides all the uncertainties above enumerated, and which present an immense field for judicial discretion, it would remain with the same department to decide what parts of the common law would, and what would not, be properly applicable to the circumstances of the United States.

A discretion of this sort has always been lamented as incongruous and dangerous, even in the Colonial and State Courts; although so much narrowed by positive provisions is the local codes on all the principal subjects embraced by the common law. Under the United States, where so few laws exist on those subjects, and where so great a lapse of time must happen before the vast chasm could be supplied, it is manifest that the power of the judges over the law would, in fact, erect them into legislators, and that, for a long time, it would be impossible for the citizens to conjecture either what was, or would be law.

In the last place, the consequence of admitting the common law as the law of the United States, on the authority of the individual States, is as obvious as it would be fatal. As this law relates to every subject of legislation, and would be paramount to the constitutions and laws of the States; the admission of it would overwhelm the residuary sovereignty of the States, and by one constructive operation, new-model the whole political fabric of the country.

From the review thus taken of the situation of the American colonies, prior to their independence; of the effect of this event on their situation; of the nature and import of the articles of confederation; of the true meaning of the passage in the existing constitution from which the common law has been deduced; of the difficulties and uncertainties incident to the doctrine; and of its vast consequences in extending the powers of the Federal Government, and in superseding the authorities of the State Governments; the committee feel the utmost confidence in concluding, that the common law never was, nor by any fair construction, ever can be deemed a law for the American people as one community; and they indulge the strongest expectation that the same conclusion will be finally drawn by all candid and accurate inquiries into the subject. It is, indeed, distressing to reflect, that it ever should have been made a question, whether the constitution, on the whole face of which is seen so much labor to enumerate and define the several objects of Federal power, could intend to introduce in the lump, in an indirect manner, and by a forced construction of a few phrases, the vast and multifarious jurisdiction involved in the common law; a law filling so many ample volumes; a law overspreading the entire field of legislation; and a law that would sap the foundation of the constitution as a system of limited and specified powers. A severer reproach could not, in the opinion of the committee, be thrown on the constitution, on those who framed, or on those who established it, than such a supposition would throw on them.

The argument then, drawn from the common law, on the ground of its being adopted or recog-

nized by the constitution, being inapplicable to the Sedition act, the committee will proceed to examine the other arguments which have been founded on the constitution.

They will waste but little time on the attempt to cover the act by the preamble to the constitution it being contrary to every acknowledged rule of construction, to set up this part of an instrument in opposition to the plain meaning, expressed in the body of the instrument. A preamble usually contains the general motives or reason for the particular regulations or measures which follow it; and is always understood to be explained and limited by them. In the present instance, a contrary interpretation would have the inadmissible effect, of rendering nugatory or improper, every part of the constitution which succeeds the preamble.

The paragraph in Art. 1, Sec. 8, which contains the power to lay and collect taxes, duties imposts, and excises; to pay the debts, and provide for the common defence and general welfare, having been already examined, will also require no particular attention in this place. It will have been seen that in its fair and consistent meaning, it cannot enlarge the enumerated powers vested in Congress.

The part of the constitution which seems most to be recurred to, in defence of the "Sedition act," is the last clause of the above section, empowering Congress to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof."

The plain import of this clause is, that Congress shall have all the incidental or instrumental powers, necessary and proper for carrying into execution all the express powers; whether they be vested in the Government of the United States, more collectively, or in the several departments or officers thereof.

It is not a grant of new powers to Congress, but merely a declaration for the removal of all uncertainty, that the means of carrying into execution, those otherwise granted, are included in the grant.

Whenever, therefore, a question arises concerning the constitutionality of a particular power, the first question is, whether the power be expressed in the constitution. If it be, the question is decided. If it be not expressed, the next inquiry must be, whether it is properly an incident to an express power, and necessary to its execution. If it be, it may be exercised by Congress. If it be not, Congress cannot exercise it.

Let the question be asked, then, whether the power over the press, exercised in the "Sedition act," be found among the powers expressly vested in the Congress? This is not pretended.

Is there any express power, for executing which, it is a necessary and proper power?

The power which has been selected, at least remote, in answer to this question, is that "of suppressing insurrections;" which is said to imply a power to *prevent* insurrections, by punishing whatever may *lead or tend* to them. But it surely cannot, with the least plausibility, be said, that the regulation of the press, and a punishment of libels, are exercises of a power to suppress insurrections. The most that could be said, would be, that the punishment of libels, if it had the tendency ascribed to it, might prevent the occasion of passing or executing laws necessary and proper for the suppression of insurrections.

Has the Federal Government no power then, to prevent as well as to punish resistance to the laws?

They have the power which the constitution deemed most proper in their hands for the purpose. The Congress has power, before it happens, to pass laws for punishing it; and the executive and judiciary have power to enforce those laws when it does happen.

It must be recollected by many, and could be shewn to the satisfaction of all that the construction here put on the terms "necessary and proper," is precisely the construction which prevailed during the discussions and ratifications of the constitution. It may be added, and cannot too often be repeated, that it is a construction absolutely necessary to maintain their consistency with the peculiar character of the Government, as possessed of particular and definite powers only; not of the general and indefinite powers vested in ordinary Governments. For if the power to *suppress insurrections*, includes the power to *punish libels*; or if the power to *punish*, includes a power to *prevent*, by all the means that may have that *tendency*, such is the relation and influence among the most remote subjects of legislations, that a power over a very few, would carry with it a power over all. And it must be wholly immaterial, whether unlimited powers be exercised under the name of unlimited powers, or be exercised under the name of unlimited means of carrying into execution, limited powers.

This branch of the subject will be closed with a reflection which must have weight with all, but more especially with those who place peculiar reliance on the judicial exposition of the constitution, as the bulwark provided against an undue extension of the legislative power. If it be understood, that the powers implied in the specified powers, have an immediate and appropriate relation to them, as means necessary and proper for carrying them into execution, questions, on the constitutionality of laws passed for this purpose, will be of a nature sufficiently precise and determinate for judicial cognizance and control. If, on the other hand, Congress are not limited in the choice of means by any such appropriate relation of them to the specified powers; but may employ all such means they may deem fitted to *prevent* as well as to *punish* crimes subjected to their authority; such as may have a *tendency* only to *promote* an object for which they are authorized to provide; every one must perceive that questions relating to means of this sort, must be questions for mere policy and expediency; on which legislative discretion alone can decide, and from which the judicial interposition and control are completely excluded.

It. The next point which the resolution requires to be proved is, that the power over the press exercised by the Sedition act, is positively forbidden by one of the amendments to the constitution.

The amendment stands in these words—"Congress shall make no law respecting an establish-



ment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

In the attempts to vindicate the 'Sedition act,' it has been contended, 1. That the 'freedom of the press' is to be determined by the meaning of these terms in the common law. 2. That the article supposes the power over the press to be in Congress, and prohibits them only from abridging the freedom allowed to it by the common law.

Although it will be shewn, on examining the second of these positions, that the amendment is a denial to Congress of all power over the press, it may not be useless to make the following observations on the first of them.

It is deemed to be a sound opinion, that the Sedition act in its definition of some of the crimes created, is an abridgement of the freedom of publication, recognized by principles of the common law in England.

The freedom of the press, under the common law, is in the defences of the Sedition act, made to consist in an exemption from all previous restraint on printed publications, by persons authorized to inspect or prohibit them. It appears to the committee, that this idea of the freedom of the press, can never be admitted to be the American idea of it: since a law inflicting penalties on printed publications, would have a similar effect with a law authorizing a previous restraint on them. It would seem a mockery to say, that no laws should be passed, preventing publications from being made, but that laws might be passed, for punishing them in case they should be made.

The essential difference between the British Government, and the American constitutions will place this subject in the clearest light.

In the British Government, the danger of encroachments on the rights of the people, is understood to be confined to the executive magistrate. The representatives of the people in the legislature, are not only exempt themselves, from distrust, but are considered as sufficient guardians of the rights of their constituents against the danger from the executive. Hence, it is a principle, that the parliament is unlimited in its power; or, in their own language, is omnipotent. Hence, too, all the ramparts for protecting the rights of the people, such as their Magna Charta, their Bill of Rights, &c. are not reared against the parliament, but against the royal prerogative. They are merely legislative precaution, against executive usurpation. Under such a Government as this, an exemption of the press from previous restraint by licensers appointed by the king, is all the freedom that can be secured to it.

In the United States, the case is altogether different. The people, not the Government, possess the absolute sovereignty. The legislature, no less than the executive, is under limitations of power. Encroachments are regarded as possible from the one, as well as from the other. Hence, in the United States, the great and essential rights of the people are secured against legislative, as well as executive ambition. They are secured not by laws paramount to prerogative, but by constitutions paramount to laws. This security of the freedom of the press requires, that it should be exempt, not only from previous restraint by the executive, as in Great Britain; but from legislative restraint also; and this exemption, to be effectual, must be an exemption, not only from the previous inspection of licences, but from the subsequent penalty of laws.

The state of the press, therefore, under the common law, cannot in this point of view, be the standard of its freedom in the United States.

But there is another view, under which it may be necessary to consider this subject. It may be alleged that, although the security for the freedom of the press, be different in Great Britain and in this country; being a legal security only in the former, and a constitutional security in the latter; and although there may be a further difference, in an extension of the freedom of the press here, beyond an exemption from previous restraint, to an exemption from subsequent penalties also; yet the actual legal freedom of the press, under the common law, must determine the degree of freedom, which is meant by the terms, and which is constitutionally secured against both previous and subsequent restraints.

The committee are not unaware of the difficulty of all general questions, which may turn on the proper boundary between the liberty and licentiousness of the press. They will leave it therefore for consideration only, how far the difference between the nature of the British Government, and the nature of the American Governments, and the practice under the latter, may shew the degree of rigor in the former, to be inapplicable to, and not obligatory in the latter.

The nature of governments elective, limited and responsible, in all their branches, may well be supposed to require a greater freedom of animadversion, than might be tolerated by the genius of such a government as that of Great Britain. In the latter, it is a maxim, that the King, an hereditary, not a responsible magistrate, can do no wrong; and that the legislature, which in two thirds of its composition is also hereditary, not responsible, can do what it pleases. In the United States, the executive magistrates are not held to be infallible, nor the legislatures to be omnipotent; and both being elective, are both responsible. Is it not natural and necessary, under such different circumstances, that a different degree of freedom, in the use of the press, should be contemplated?

Is not such an inference favored by what is observable in Great Britain itself? Notwithstanding the general doctrine of the common law, on the subject of the press, and the occasional punishment of those, who use it with a freedom, offensive to the Government, it is well known, that with respect to the responsible measures of the Government, where the reasons operating here, become applicable there, the freedom exercised by the press, and protected by public opinion, far exceeds the limits prescribed by the ordinary rules of law. The ministry, who are responsible to impeachment, are at all times, animadverted on, by the press, with peculiar freedom; and during the elections for the House of Commons, the other responsible part of the Government, the press is employed with as little reserve towards the candidates.

The practice in America must be entitled to much more respect. In every State, probably, in the Union, the press has exerted a freedom in canvassing the merits and measures of public men,

of every description, which has not been confined to the strict limits of the common law. On this footing, the freedom of the press has stood; on this foundation it yet stands. And it will not be a breach, either of truth or of candor, to say, that no persons or presses are in the habit of more unrestrained animadversions on the proceeding and functionaries of the State Governments, than the persons and presses most zealous in vindicating the act of Congress for punishing similar animadversions on the Government of the United States.

The last remark will not be understood, as claiming for the State Governments, an immunity greater than they have heretofore enjoyed. Some degree of abuse is inseparable from the proper use of every thing; and in no instance is this more true, than in that of the press. It has accordingly been decided by the practice of the States, that it is better to leave a few of its noxious branches to their luxuriant growth, than by pruning them away, to injure the vigor of those yielding the proper fruits. And can the wisdom of this policy be doubted by any one who reflects, that to the press alone, chequered as it is with abuses, the world is indebted for all the triumphs which have been gained by reason and humanity, over error and oppression; who reflect, that to the same beneficent source, the United States owe much of the lights which conducted them to the ranks of a free and independent nation; and which have improved their political system, into a shape so auspicious to their happiness. Had "Sedition Acts," forbidding every publication that might bring the constituted agents into contempt or disrepute, or that might excite the hatred of the people against the authors of unjust or pernicious measures, been uniformly enforced against the press; might not the United States have been languishing at this day, under the infirmities of a sickly confederation? Might they not, possibly, be miserable colonies, groaning under a foreign yoke?

To these observations one fact will be added, which demonstrates that the common law cannot be admitted as the *universal* expositor of American terms, which may be the same with those contained in that law. The freedom of conscience, and of religion, are found in the same instruments which assert the freedom of the press: It will never be admitted that the meaning of the former, in the common law of England, is to limit their meaning in the United States.

Whatever weight may be allowed to these considerations, the Committee do not, however, by any means intend to rest the question on them. They contend that the article of the amendment, instead of supposing in Congress a power that might be exercised over the press, provided its freedom was not abridged, was meant as a positive denial to Congress, of any power whatever on the subject.

To demonstrate that this was the true object of the article, it will be sufficient to recall the circumstances which led to it, and to refer to the explanation accompanying the article.

When the Constitution was under the discussions which preceded its ratification, it is well known, that great apprehensions were expressed by many, lest the omission of some positive exception from the powers delegated, of certain rights, and of the freedom of the press particularly, might expose them to danger of being drawn by construction within some of the powers vested in Congress; more especially of the power to make all laws necessary and proper for carrying their other powers into execution. In reply to this objection, it was invariably urged to be a fundamental and characteristic principle of the Constitution, that all powers not given by it were reserved; that no powers were given beyond those enumerated in the Constitution, and such as were fairly incident to them; that the power over the rights in question, and particularly over the press, was neither among the enumerated powers, nor incident to any of them; and consequently that an exercise of any such power, would be manifest usurpation. It is painful to remark how much the arguments now employed in behalf of the Sedition Act, are at variance with the reasoning which then justified the Constitution, and invited its ratification.

From this posture of the subject, resulted the interesting question in so many of the Conventions, whether the doubts and dangers ascribed to the Constitution, should be removed by any amendments previous to the ratification, or be postponed, in confidence that as far as they might be proper, they would be introduced in the form provided by the Constitution. The latter course was adopted; and in most of the States, ratifications were followed by the propositions and instructions for rendering the Constitution more explicit, and more safe to the rights not meant to be delegated by it. Among those rights the freedom of the press, in most instances, is particularly and emphatically mentioned. The firm and very pointed manner in which it is asserted in the proceedings of the Convention of this State will be hereafter seen.

In pursuance of the wishes thus expressed, the first Congress that assembled under the Constitution, proposed certain amendments, which have since, by the necessary ratifications, been made a part of it; among which amendments is the article containing, among other prohibitions on the Congress, an express declaration that they should make no law abridging the freedom of the press.

Without tracing farther the evidence on this subject, it would seem scarcely possible to doubt, that no power whatever over the press, was supposed to be delegated by the Constitution, as it originally stood; and that the amendment was intended as a positive and absolute reservation of it.

But the evidence is still stronger. The proposition of amendments made by Congress, is introduced in the following terms.

"The Conventions of a number of the States having at the time of their adopting the Constitution expressed a desire, in order to prevent misconstructions or abuse of its powers, that further declaratory and restrictive clauses should be added; and as extending the ground of public confidence in the Government, will best insure the beneficent ends of its institutions."

Here is the most satisfactory and authentic proof, that the several amendments proposed, were to be considered as either declaratory or restrictive; and whether the one or the other, as corresponding, with the desire expressed by a number of the States, and as extending the ground of public confidence in the Government.



Under any other construction of the amendment relating to the press, than that it declared the press to be wholly exempt from the power of Congress, the amendment could neither be said to correspond with the desire expressed by a number of the States, nor be calculated to extend the ground of public confidence in the Government.

Nay, more; the construction employed to justify the "Sedition Act," would exhibit a phenomenon, without a parallel in the political world. It would exhibit a number of respectable States, as denying first, that any power over the press was delegated by the constitution, as proposing next, that an amendment to it should explicitly declare that no such power was delegated; and finally as concurring in an amendment actually recognizing or delegating such a power.

Is then the Federal Government, it will be asked, destitute of every authority for restraining the licentiousness of the press, and for shielding itself against the libellous attacks which may be made on those who administer it?

The constitution alone can answer this question. If no such power be expressly delegated, and if it be not both necessary and proper to carry into execution an express power; above all, if it be expressly forbidden, by a declaratory amendment to the Constitution, the answer must be that the Federal Government is destitute of all such authority.

And might it not be asked in turn, whether it is not more probable, under all the circumstances which have been reviewed, that the authority should be withheld by the Constitution, than that it should be left to a vague and violent construction; whilst so much pains were bestowed in enumerating other powers, and so many less important powers are included in the enumeration?

Might it not be likewise asked, whether the anxious circumspection which dictated so many peculiar limitations on the general authority, would be unlikely to exempt the press altogether from that authority? The peculiar magnitude of some of the powers necessarily committed to the Federal Government; the peculiar duration required for the functions of some of its departments; the peculiar distance of the seat of its proceedings from the great body of its constituents; and the peculiar difficulty of circulating an adequate knowledge of them through any other channel; will not these considerations, some or other of which produced other exceptions from the powers of ordinary Governments, altogether, account for the policy of binding the hand of the Federal Government, from touching the channel which alone can give efficacy to its responsibility to its constituents; and of leaving those who administer it, to a remedy for their injured reputations, under the same laws, and in the same tribunals, which protect their lives, their liberties, and their properties.

But the question does not turn either on the wisdom of the Constitution, or on the policy which gave rise to its particular organization. It turns on the actual meaning of the instrument; by which it has appeared, that a power over the press is clearly excluded, from the number of powers delegated to the Federal Government.

3. And, in the opinion of the committee, well may it be said, as the resolution concludes with saying, that the unconstitutional power exercised over the press by the "Sedition Act," ought, "more than any other, to produce universal alarm; because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right."

Without scrutinizing minutely into all the provisions of the "Sedition Act," it will be sufficient to cite so much of section 2, as follows:—"And be it further enacted, that if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall knowingly and willingly assist or aid in writing, printing, uttering, or publishing any false, scandalous, and malicious writing or writings against the Government of the United States, or either House of the Congress of the United States, *with an intent to defame the said Government, or either House of the said Congress, or the President, or to bring them, or either of them into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States, &c.* Then such persons being thereof convicted before any court of the United States, having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years."

On this part of the act, the following observations present themselves:

1. The Constitution supposes that the President, the Congress, and each of its Houses, may not discharge their trusts, either from defect of judgment or other causes. Hence they are all made responsible to their constituents, at the returning periods of elections; and the President, who is singly entrusted with very great powers, is, as a further guard, subjected to an intermediate impeachment.

2. Should it happen, as the constitution supposes it may happen, that either of these branches of the Government may not have duly discharged its trust; it is natural and proper, that according to the cause and degree of their faults, they should be brought into contempt or disrepute, and incur the hatred of the people.

3. Whether it has, in any case happened that the proceedings of either, or all of those branches evinces such a violation of duty as to justify a contempt, a disrepute, or hatred among the people, can only be determined by a free examination thereof, and a free communication among the people thereon.

4. Whenever it may have actually happened, that proceedings of this sort are chargeable on all or either of the branches of the Government, it is the duty as well as the right of intelligent and faithful citizens to discuss and promulge them freely, as well to control them by the censorship of the public opinion, as to promote a remedy according to the rules of the Constitution. And it cannot be avoided, that those who are to apply the remedy must feel, in some degree, a contempt or hatred against the transgressing party.

5. As the act was passed on July 14, 1798, and is to be in force until March 3, 1801, it was, of course, that during its continuance, two elections of the entire House of Representatives, an election of a part of the Senate, and an election of a President were to take place.

6. That consequently, during all these elections intended by the constitution, to preserve the purity, or to purge the faults of the administration, the great remedial rights of the people were to be exercised, and the responsibility of their public agents to be screened, under the penalties of this act.

May it not be asked of every intelligent friend to the liberties of his country, whether the power exercised in such an act as this, out not to produce great and universal alarm? Whether a rigid execution of such an act, in time past, would not have repressed that information and communication among the people which is indispensable to the just exercise of their electoral rights? And whether such an act, if made perpetual, and enforced with rigour, would not, in time to come, either destroy our free system of government, or prepare a convulsion that might prove equally fatal to it?

In answer to such questions it has been pleaded that the writings and publications forbidden by the act, are those only which are false and malicious, and intended to defame; and merit is claimed for the privilege allowed to authors to justify, by proving the truth of their publications, and for the limitations to which the sentence of fine and imprisonment is subjected.

To those who concurred in the act, under the extraordinary belief that the option lay between the passing of such an act, and leaving in force the common law of libels, which punishes truth equally with falsehood; and submits fine and imprisonment to the indefinite discretion of the court, the merit of good intentions ought surely not to be refused. A like merit may perhaps be due for the discontinuance of the *corporal punishment*, which the common law also leaves to the discretion of the court. This merit of *intention*, however, would have been greater, if the several mitigations had not been limited to so short a period; and the apparent inconsistency would have been avoided, between justifying the act at one time, by contrasting it with the rigors of the common law otherwise in force; and at another time, by appealing to the nature of the crisis, as requiring the temporary rigor exerted by the act.

But, whatever may have been the meritorious intentions of all or any who contributed to the sedition act, a very few reflections will prove, that its baleful tendency is little diminished by the privilege of giving in evidence the truth of the matter contained in political writings.

In the first place, where simple and naked facts alone are in question, there is sufficient difficulty in some cases, and sufficient trouble and vexation in all, of meeting a prosecution from the Government, with the full and formal proof necessary in a court of law.

But in the next place, it must be obvious to the plainest minds, that opinions and inferences, and conjectural observations, are not only in many cases inseparable from the facts, but may often be more the objects of the prosecution than the facts themselves; or may even be altogether abstracted from particular facts; and that opinion and inferences, and conjectural observations, cannot be subjects of that kind of proof which appertains to facts, before a court of law.

Again: It is no less obvious that the *intent* to defame or bring into contempt or disrepute, or hatred, which is made a condition of the offence created by the act, cannot prevent its pernicious influence on the freedom of the press. For, omitting the inquiry, how far the malice of the intent is an inference of the law from the mere publication; it is manifestly impossible to punish the intent to bring those who administer the government into disrepute or contempt; without striking at the right of freely discussing public characters and measure; because those who engage in such discussions, must expect and *intend* to excite these unfavorable sentiments, so far as they may be thought to be deserved. To prohibit, the intent to excite those unfavorable sentiments against those who administer the government, is equivalent to a prohibition of the actual excitement of them; and to prohibit the actual excitement of them, is equivalent to a prohibition of discussions having that tendency and effect; which, again, is equivalent to a protection of those who administer the government, if they should at any time deserve the contempt or hatred of the people, against being exposed to it, by free animadversions on their characters and conduct. Nor can there be a doubt, if those in public trust be shielded by penal laws from such strictures of the press, as may expose them to contempt or disrepute, or hatred, where they may deserve it, that in exact proportion as they may deserve to be exposed, will be the certainty and criminality of the intent to expose them and the vigilance of prosecuting and punishing it; nor a doubt that a government thus intrenched in penal statutes, against the just and natural effects of a culpable administration, will easily evade the responsibility which is essential to a faithful discharge of its duty.

Let it be recollected, lastly, that the right of electing the members of the government constitutes more particularly the essence of a free and responsible government. The value and efficacy of this right, depends on the knowledge of the comparative merits and demerits of the candidates for public trust; and on the equal freedom, consequently of examining and discussing these merits and demerits of the candidates respectively. It has been seen that a number of important elections will take place while the act is in force; although it should not be continued beyond the term to which it is limited. Should there happen then, as is extremely probable in relation to some or other of the branches of the government, to be competitions between those who are, and those who are not members of the government, what will be the situations of the competitors?—Not equal; because the characters of the former will be covered by the "sedition act" from animadversions exposing them to disrepute among the people, whilst the latter may be exposed to the contempt and hatred of the people, without a violation of the act. What will be the situation of the people? Not free; because they will be compelled to make their election between competitors, whose pretensions they are not permitted by the act equally to examine, to discuss, and to ascertain. And from both these situations will not those in power derive an undue advantage for continuing themselves in it; which by impairing the right of election, endangers the blessings of the government founded on it?

It is with justice, therefore, that the general assembly have affirmed in the resolution, as well that the right of freely examining public characters and measures, and of communication thereon, is the only effectual guardian of every other right; as that this particular right is levelled at, by the power exercised in the "Sedition act."



The resolution next in order is as follows:

*That this state having by its convention, which ratified the federal constitution, expressly declared, that among other essential rights, "the liberty of conscience and of the press cannot be cancelled, abridged, restrained or modified by any authority of the United States;" and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition having, with other states, recommended an amendment for that purpose, which amendment was in the time annexed to the constitution; it would mark a reproachful inconsistency, and criminal degeneracy, if an indifference were not shown, to the most palpable violation of one of the rights thus declared and secured; and to the establishment of a precedent, which may be fatal to the other.*

To place this resolution in its just light, it will be necessary to recur to the act of ratification by Virginia, which stands in the ensuing form:

"We, the delegates of the people of Virginia, duly elected in pursuance of a recommendation from the general assembly, and now met in convention, having fully and freely investigated and discussed the proceedings of the federal convention, and being prepared as well as the most mature deliberation hath enabled us, to decide thereon; DO, in the name and in behalf of the people of Virginia, declare and make known, that the powers granted under the constitution, being derived from the people of the United States, may be resumed by them, whosoever the same shall be perverted to their injury or oppression; and that every power not granted thereby, remains with them, and at their will. That therefore, no right of any denomination can be cancelled, abridged, restrained or modified by the congress, by the senate or house of representatives acting in any capacity by the president, or any department or officer of the United States, except in those instances in which power is given by the constitution for those purposes; and that among other essential rights, the liberty of conscience, and of the press, cannot be cancelled, abridged, restrained or modified by any authority of the United States."

Here is an express and solemn declaration by the convention of the state, that they ratified the constitution in the sense that no right of any denomination can be cancelled, abridged, restrained or modified by the government of the United States, or any part of it, except in those instances in which power is given by the constitution; and in the sense particularly, "that among other essential rights, the liberty of conscience and freedom of the press cannot be cancelled, abridged, restrained or modified by any authority of the United States."

Words could not well express, in a full or more forcible manner, the understanding of the convention, that the liberty of conscience and the freedom of the press, were *equally and completely* exempted from all authority whatever of the United States.

Under an anxiety to guard more effectually these rights against every possible danger, the convention, after ratifying the constitution, proceeded to prefix to certain amendments proposed by them, a declaration of rights, in which are two articles providing, the one for the liberty of conscience, the other for the freedom of speech, and of the press.

Similar recommendations having proceeded from a number of other states; and congress, as has been seen, having in consequence thereof, and with a view to extend the ground of public confidence, proposed among other declaratory and restrictive clauses, a clause expressly securing the liberty of conscience and of the press; and Virginia having concurred in the ratifications which made them a part of the constitution, it will remain with a candid public to decide, whether it would not mark an inconsistency and degeneracy, if an indifference were not shown to a palpable violation of one of those rights, the freedom of the press; and to a precedent therein, which may be fatal to the other, the free exercise of religion.

That the precedent established by the violation of the former of these rights, may, as is affirmed by the resolution, be fatal to the latter, appears to be demonstrable, by a comparison of the grounds on which they respectively rest; and from the scope of reasoning, by which the power of the former has been vindicated.

*First*, Both of these rights, the liberty of conscience and of the press, rest equally on the original ground of not being delegated by the constitution, and consequently withheld from the government. Any construction, therefore, that would attack this original security for the one, must have the like effect on the other.

*Secondly*, They are both equally secured by the supplement to the constitution; being both included in the same amendment, made at the same time, and by the same authority. Any construction or argument then, which would turn the amendment into a grant or acknowledgement of power with respect to the press, might be equally applied to the freedom of religion.

*Thirdly*, If it be admitted that the extent of the freedom of the press, secured by the amendment, is to be measured by the common law on this subject; the same authority may be resorted to, for the standard which is to fix the extent of the "free exercise of religion." It cannot be necessary to say what this standard would be; whether the common law be taken solely as the unwritten, or as varied by the written law of England.

*Fourthly*, If the words and phrases in the amendment are to be considered as chosen with a studied discrimination, which yields an argument for a power over the press, under the limitation that its freedom be not abridged; the same argument results from the same consideration, for a power over the exercise of religion, under the limitation that its freedom be not prohibited.

For, if congress may regulate the freedom of the press provided they do not abridge it, because it is said only, "they shall not abridge it," and is not said, "they shall make no law respecting it;" the analogy of reasoning is conclusive, that congress may *regulate* and even *abridge* the free exercise of religion, provided they do not *prohibit* it; because it is said only "they shall not prohibit it;" and is not said, "they shall make no law respecting, or no law abridging it."

The general assembly were governed by the clearest reason, then, in considering the "sedition act," which legislates on the freedom of the press, as establishing a precedent that may be fatal to the liberty of conscience: and it will be the duty of all, in proportion as they value the security of the latter, to take the alarm at every encroachment on the former.

The two concluding resolutions only remain to be examined. They are in the words following—

"That the good people of this commonwealth, having ever felt, and continuing to feel, the most sincere affection for their brethren of the other states, the truest anxiety for establishing and perpetuating the union of all; and the most scrupulous fidelity to that constitution, which is the pledge of mutual friendship, and the instrument of mutual happiness, the general assembly doth solemnly appeal to the like dispositions in the other states in confidence that they will concur with this commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional; and that the necessary and proper measures will be taken by each, for co-operating with this state, in maintaining unimpaired, the authorities, rights, and liberties reserved to the states respectively, or to the people.

"That the governor be desired to transmit a copy of the foregoing resolutions to the executive authority of each of the other states, with a request that the same may be communicated to the legislature thereof; and that a copy be furnished to each of the senators and representatives, respecting this state in the congress of the United States."

The fairness and regularity of the course of proceeding, here pursued, have not protected it against objections even from sources too respectable to be disregarded.

It has been said that it belongs to the judiciary of the United States, and not the state legislatures, to declare the meaning of the federal constitution.

But a declaration, that proceedings of the federal government are not warranted by the constitution, is a novelty neither among the citizens, nor among the legislatures of the states; nor are the citizens or the legislature of Virginia, singular in the example of it.

Nor can the declarations of either, whether affirming or denying the constitutionality of measures of the federal government; or whether made before or after judicial decisions thereon, be deemed in any point of view, an assumption of the office of the judge. The declarations in such cases, are expressions of opinion, unaccompanied with any other effect than what they may produce on opinion, by exciting reflection. The expositions of the judiciary, on the other hand, are carried into immediate effect by force. The former may lead to a change in the legislative expression of the general will; possibly to a change in the opinion of the judiciary; the latter enforces the general will, whilst that will and that opinion continue unchanged.

And if there be no impropriety in declaring the unconstitutionality of proceedings in the federal government, where can there be the impropriety of communicating the declaration to other states, and inviting their concurrence in a like declaration? What is allowable for one, must be allowable for all; and a free communication among the states, where the constitution imposes no restraint, is as allowable among the state governments, as among other public bodies or private citizens.— This consideration derives a weight, that cannot be denied to it, from the relation of the state legislatures to the federal legislature as the immediate constituents of one of its branches.

The Legislatures of the States have a right also to originate amendments to the Constitution, by a concurrence of two-thirds of the whole number, in applications to Congress for the purpose. When new States are to be formed by a junction of two or more States or parts of States, the Legislatures of the States concerned, are, as well as Congress, to concur in the measure. The States have a right also to enter into agreements or compacts, with the consent of Congress. In all such cases a communication among them results from the object which is common to them.

It is lastly to be seen, whether the confidence expressed by the resolution, that the *necessary and proper measures* would be taken by the other States for co-operating with Virginia in maintaining the rights reserved to the States, or to the people, be in any degree liable to the objections which have been raised against it.

If it be liable to objections, it must be because either the object or the means are objectionable.

The object being to maintain what the Constitution has ordained is in itself a laudable object.

The means are expressed in the terms "the necessary and proper measures." A proper object was to be pursued by means both necessary and proper.

To find an objection, then, it must be shown that some meaning was annexed to these general terms, which was not proper; and, for this purpose, either, that the means used by the General Assembly were an example of improper means, or, that there were no proper means to which the terms could refer.

In the example given by the State, of declaring the Alien and Sedition acts to be unconstitutional, and of communicating the declaration to other States, no trace of improper means has appeared. And if the other States, had concurred in making a like declaration, supported too, by the numerous applications flowing immediately from the people, it can scarcely be doubted, that these simple means would have been as sufficient, as they are unexceptionable.

It is no less certain that other means might have been employed, which are strictly within the limits of the Constitution. The Legislatures of the States might have made a direct representation to Congress, with a view to obtain a rescinding of the two offensive acts; or, they might have represented to their respective Senators in Congress, their wish, that two-thirds thereof would propose an explanatory amendment to the Constitution; or two-thirds of themselves, if such had been their option, might, by an application to Congress, have obtained a Convention for the same object.

These several means, though not equally eligible in themselves, nor probably to the States, were all constitutionally open for consideration. And if the General Assembly, after declaring the two acts to be unconstitutional, the first and most obvious proceeding on the subject, did not undertake to point out to the other States a choice among the farther measures that might become necessary and proper, the reserve will not be misconstrued by liberal minds into any culpable imputation.

These observations appear to form a satisfactory reply to every objection which is not founded on a misconception of the terms employed in the resolutions. There is one other, however, which may be of too much importance not to be added. It cannot be forgotten, that among the arguments addressed to those who apprehended danger to liberty from the establishment of the



General Government over so great a country, the appeal was emphatically made to the intermediate existence of the State Governments, between the people and that Government, to the vigilance with which they would desecry the first symptoms of usurpation, and to the promptitude with which they would sound the alarm to the public. This argument was probably not without its effect; and if it was a proper one then, to recommend the establishment of the Constitution, it must be a proper one now, to assist in its interpretation.

The only part of the two concluding resolutions that remains to be noticed, is the repetition in the first of that warm affection to the Union and its members, and of that scrupulous fidelity to the Constitution, which have been invariably felt by the people of this State. As the proceedings were introduced with these sentiments, they could not be more properly closed than in the same manner. Should there be any so far misled as to call in question the sincerity of these professions, whatever regret may be excited by the error, the General Assembly cannot descend into a discussion of it. Those who have listened to the suggestion, can only be left to their own recollection of the part which this State has borne in the establishment of our national independence, in the establishment of our national Constitution, and in maintaining under it the authority and laws of the Union, without a single exception of internal resistance or commotion. By recurring to the facts, they will be able to convince themselves, that the representatives of the people of Virginia, must be above the necessity of opposing any other shield to attacks on their national patriotism, than their own conscientiousness, and the justice of an enlightened public; who will perceive in the resolutions themselves, the strongest evidence of attachment both to the Constitution and the Union, since it is only by maintaining the different Governments and the departments within their respective limits, that the blessings of either can be perpetuated.

The extensive view of the subject, thus taken by the Committee, has led them to report to the House, as the result of the whole, the following resolution:

*Resolved*, That the General Assembly, having carefully and respectfully attended to the proceedings of a number of the States, in answer to the resolutions of December 21, 1798, and having accurately and fully re-examined and re-considered the latter, find it to be their indispensable duty to ADHERE TO THE SAME as founded in truth, as CONSONANT WITH THE CONSTITUTION, and as CONDUCTIVE TO ITS PRESERVATION; and more especially to be their duty to renew, as they do hereby renew their protest against "the Alien and Sedition acts," as PALPABLE AND ALARMING INFRACTIONS OF THE CONSTITUTION.

## MR CALHOUN'S ADDRESS.

From the Pendleton Messenger.

The question of the relation which the States and General Government bear to each other, is not one of recent origin. From the commencement of our system, it has divided public sentiment. Even in the Convention, while the Constitution was struggling into existence, there were two parties, as to what this relation should be, whose different sentiments constituted no small impediment in forming that instrument. After the General Government went into operation, experience soon proved that the question had not terminated with the labours of the Convention. The great struggle that preceded the political revolution of 1801, which brought Mr Jefferson into power, turned essentially on it; and the doctrines and arguments on both sides were embodied and ably sustained; on the one, in the Virginia and Kentucky resolutions and the report to the Virginia Legislature; and on the other, in the replies of the Legislature of Massachusetts and some of the other States. These resolutions and this report, with the decision of the Supreme Court of Pennsylvania about the same time, (particularly in the case of Cobbett, delivered by Chief Justice M'Kean, and concurred in by the whole bench.) contain what I believe to be the true doctrine on this important subject. I refer to them in order to avoid the necessity of presenting my views, with the reasons in support of them in detail.

As my object is simply to state my opinions, I might pause with this reference to documents that so fully and ably state all the points immediately connected with this deeply important subject; but as there are many who may not have the opportunity or leisure to refer to them, and, as it is possible, however clear they may be, that different persons may place different interpretations on their meaning, I will, in order that my sentiments may be fully known, and to avoid all ambiguity, proceed to state, summarily, the doctrines which I conceive they embrace.

The great and leading principle is, that the General Government emanated from the people of the several States, forming distinct political communities, and acting in their separate and sovereign capacity, and not from all of the people forming one aggregate political community: that the Constitution of the United States is in fact a compact, to which each State is a party, in the character already described; and that the several States, or parties, have a right to judge of its infractions, and in case of a deliberate, palpable, and dangerous exercise of power not delegated, they have the right, in the last resort, to use the language of the Virginia resolutions, "*to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them.*" This right of interposition thus solemnly asserted by the State of Virginia, be it called what it may—State right, veto, nullification, or by any other name—I conceive to be the fundamental principle of our system, resting on facts, historically as certain as our revolution itself, and deductions as simple and demonstrative as that of any political or moral truth whatever; and I firmly believe that on its recognition depends the stability and safety of our political institutions.

I am not ignorant that those opposed to the doctrine have always, now and formerly, regarded it in a very different light, as anarchical and revolutionary. Could I believe such in fact to be its tendency, to me it would be no recommendation. I yield to none, I trust, in a deep and sincere attachment to our political institutions, and the union of these States. I never breathed an opposite sentiment; but, on the contrary, I have ever considered them the great instruments of preserving our liberty, and promoting the happiness of ourselves and our posterity; and next to these, I have ever held them most dear. Nearly half my life has passed in the service of the Union, and whatever public reputation I have acquired, is indissolubly identified with it. To be too national has, indeed, been considered by many, even of my friends, to be my greatest political fault. With these strong feelings of attachment, I have examined, with the utmost care, the bearing of the doctrine in question; and so far from anarchical, or revolutionary, I solemnly believe it to be the only solid foundation of our system, and of the Union itself, and that the opposite doctrine, which denies to the States the right of protecting their reserved powers, and which would vest in the General Government, (it matters not through what department,) the right of determining exclusively and finally the powers delegated to it, is incompatible with the sovereignty of the States, and of the Constitution itself, considered as the basis of a Federal Union. As strong as this language is, it is not stronger than that used by the illustrious Jefferson, who said, to give to the General Government the final and exclusive right to judge of its powers, is to make "*its discretion and not the Constitution the measure of its powers*;" and that "*in all cases of compact between parties having no common judge, each party has an equal right to judge for itself, as well of the operation, as of the mode and measure of redress.*" Language cannot be more explicit; nor can higher authority be adduced.

That different opinions are entertained on this subject, I consider but as an additional evidence of the great diversity of the human intellect. Had not able, experienced, and patriotic individuals, for whom I have the highest respect, taken different views, I would have thought the right too clear to admit of doubt; but I am taught by this, as well as by many similar instances, to treat with deference opinions differing from my own. The error may possibly be with me; but, if so, I can only say, that after the most mature and conscientious examination, I have not been able to detect it. But with all proper deference, I must think that theirs is the error, who deny what seems to be an essential attribute of the conceded sovereignty of the States; and who attribute to the General Government a right utterly incompatible with what all acknowledge to be its limited and restricted character; an error originating principally, as I must think, in not duly reflecting on the nature of our institutions, and on what constitutes the only rational object of all political constitutions.



It has been well said by one of the most sagacious men of antiquity, that the object of a constitution is to *restrain the government, as that of laws is to restrain individuals*. The remark is correct, nor is it less true where the Government is vested in a majority, than where it is in a single or a few individuals; in a republic, than a monarchy or aristocracy. No one can have a higher respect for the maxim that the majority ought to govern, than I have, taken in its proper sense, subject to the restrictions imposed by the constitution, and confined to subjects in which every portion of the community have similar interests; but it is a great error to suppose, as many do, that the right of a majority to govern is a natural and not a conventional right; and, therefore, absolute and unlimited. By nature every individual has the right to govern himself; and governments, whether founded on majorities, or minorities, must derive their right from the assent, expressed or implied, of the governed, and be subject to such limitations as they may impose. Where the interests are the same, that is, where the laws that may benefit one, will benefit all, or the reverse, it is just and proper to place them under the control of the majority; but where they are dissimilar, so that the law that may benefit one portion may be ruinous to another, it would be, on the contrary, unjust and absurd to subject them to its will: and such, I conceive, to be the theory on which our constitution rests.

That such dissimilarity of interests may exist, it is impossible to doubt. They are to be found in every community, in a greater or less degree, however small or homogeneous, and they constitute, every where, the great difficulty of forming, and preserving free institutions. To guard against the unequal action of the laws, when applied to dissimilar and opposing interests, is in fact, what mainly renders a constitution indispensable; to overlook which in reasoning on our Constitution, would be to omit the principal element by which to determine its character. Were there no contrariety of interests, nothing would be more simple and easy than to form and preserve free institutions. The right of suffrage alone would be a sufficient guaranty. It is the conflict of opposing interests which renders it the most difficult work of man.

Where the diversity of interests exist in separate and distinct classes of the community, as is the case in England, and was formerly the case in Sparta, Rome, and most of the free States of antiquity, the rational constitutional provision is, that each should be represented in the Government, as a separate estate, with a distinct voice, and a negative on the acts of its co-estates, in order to check their encroachments. In England the constitution has assumed expressly this form; while in the governments of Sparta and Rome the same thing was effected, under different but not much less efficacious forms. The perfection of their organization, in this particular, was that which gave to the constitutions of these renowned States all of their celebrity, which secured their liberty for so many centuries, and raised them to so great a height of power and prosperity. Indeed, a constitutional provision giving to the great and separate interests of the community the right of self protection, must appear to those who will duly reflect on the subject, not less essential to the preservation of liberty than the right of suffrage itself. They in fact have a common object, to effect which the one is as necessary as the other—to secure responsibility; that is, *that those who make and execute the laws should be accountable to those on whom the laws in reality operate; the only solid and durable foundation of liberty*. It without the right of suffrage, our rulers would oppress us, so, without the right of self-protection, the major would equally oppress the minor interests of the community. The absence of the former would make the governed the slaves of the rulers, and of the latter the feebler interests, the victim of the stronger.

Happily for us we have no artificial and separate classes of society. We have wisely exploded all such distinctions; but we are not, on that account, exempt from all contrariety of interests, as the present distracted and dangerous condition of our country unfortunately but too clearly proves. With us

they are almost exclusively geographical, resulting mainly from difference of climate, soil, situation, industry and production, but are not, therefore, less necessary to be protected by an adequate constitutional provision, than where the distinct interests exist in separate classes. The necessity is, in truth, greater, as such separate and dissimilar geographical interests are more liable to come into conflict, and more dangerous when in that state, than those of any other description; so much so, that *ours is the first instance on record, where they have not formed in an extensive territory, separate and independent communities, or subject the whole to despotic sway*. That such may not be our unhappy fate, also, must be the sincere prayer of every lover of his country.

So numerous and diversified are the interests of our country, that they could not be fairly represented in a single government, organized so as to give to each great and leading interest, a separate and distinct voice, as in governments to which I have referred. A plan was adopted better suited to our situation, but perfectly novel in its character. The powers of the government were divided, not as heretofore, in reference to classes, but geographically. One General Government was formed for the whole, to which was delegated all of the powers supposed to be necessary to regulate the interests common to all of the States, leaving others subject to the separate control of the States, being from their local and peculiar character, such that they could not be subject to the will of the majority of the whole Union, without the certain hazard of injustice and oppression. It was thus that the interests of the whole were subjected, as they ought to be, to the will of the whole, while the peculiar and local interests were left under the control of the States separately, to whose custody only they could be safely confided. This distribution of power, settled solemnly by a constitutional compact, to which all of the States are parties, constitutes the peculiar character and excellence of our political system. It is truly and emphatically *American, without example or parallel*.

To realize its perfection, we must view the General Government and the States as a whole, each in its proper sphere, sovereign and independent; each perfectly adapted to their respective objects; the States acting separately, representing and protecting the local and peculiar interests; acting jointly, through one General Government, with the weight respectively assigned to each by the Constitution, representing and protecting the interest of the whole and thus perfecting, by an admirable, but simple arrangement, the great principle of representation and responsibility, without which no government can free or just. To preserve this sacred distribution as originally settled, by coercing each to move in its prescribed orb, is the great and difficult problem, on the solution of which the duration of our Constitution, of our Union, and, in all probability, our liberty, depends. How is this to be effected?

The question is new, when applied to our peculiar political organization, where the separate and conflicting interests of society are represented by distinct, but connected governments; but is in reality an old question under a new form, long since perfectly solved. Whenever separate and dissimilar interests have been separately represented in any Government; whenever the sovereign power has been divided in its exercise, the experience and wisdom of ages have devised but one mode by which such political organization can be preserved; the mode adopted in England, and by all Governments, ancient modern, blessed with constitutions deserving to be called free; to give to each co-estate the right to judge of its powers, with a negative or veto on the acts of the others, in order to protect against encroachments the interests it particularly represents; a principle which all of our Constitutions recognize in the distribution of power among their respective departments, as essential to maintain the independence of each, but which, to all who will duly reflect on the subject, must appear far more essential, for the same object, in that great and fundamental distribution of powers between the States and General Government. So essential is the principle, that to withhold the right from either, where the sovereign power is divided, is, in fact, to annul the division itself,



and to *consolidate* in the one left in the exclusive possession of the right, *all* of the powers of the government; for it is not possible to distinguish, practically, between a government having all power, and one having the right to take what powers it pleases. Nor does it in the least vary the principle; whether the distribution of power be between co-estates, as in England, or between distinctly organized but connected governments, as with us. The reason is the same in both cases, while the necessity is greater in our case, as the danger of conflict is greater where the interests of a society are divided geographically, than in any other, as has already been shown.

These truths do seem to me to be incontrovertible; and I am at a loss to understand how any one, who has maturely reflected on the nature of our institutions, or who has read history or studied the principles of free government to any purpose, can call them in question. The explanation must, it appears to me, be sought in the fact, that in every free State, there are those who look more to the necessity of maintaining power, than guarding against its abuses. I do not intend reproach, but simply to state a fact apparently necessary to explain the contrariety of opinions, among the intelligent, where the abstract consideration of the subject would seem scarcely to admit of doubt. If such be the true cause, I must think the fear of weakening the government too much in this case to be in a great measure unfounded, or at least that the danger is much less from that than the opposite side. I do not deny that a power of so high a nature may be abused by a State, but when I reflect that the States unanimously called the general government into existence with all of its powers, which they freely surrendered on their part, under the conviction that their common peace, safety, and prosperity required it; that they are bound together by a common origin, and the recollection of common suffering and common triumph in the great and splendid achievement of their independence; and the strongest feelings of our nature, and among them, the love of national power and distinction, are on the side of the Union; it does seem to me, that the fear which would strip the States of their sovereignty, and degrade them, in fact, to mere dependent corporations, lest they should abuse a right indispensable to the peaceable protection of those interests which they reserved under their own peculiar guardianship when they created the General Government, is unnatural and unreasonable. If those who voluntarily created the system, cannot be trusted to preserve it, what power can?

So far from extreme danger, I hold that there never was a free state, in which this great conservative principle, indispensable in all, was ever so safely lodged. In others, when the co-estates, representing the dissimilar and conflicting interests of the community came into contact, the only alternative was compromise, submission, or force. Not so in ours. Should the General Government and a state come into conflict, we have a higher remedy; the power which called the General Government into existence, which gave it all of its authority, and can enlarge, contract, or abolish its powers at its pleasure, may be invoked. The States themselves may be appealed to, three-fourths of which, in fact, form a power, whose decrees are the Constitution itself, and whose voice can silence all discontent. The utmost extent then of the power is, that a state acting in its sovereign capacity, as one of the parties to the constitutional compact, may compel the government, created by that compact, to submit a question touching its infraction to the parties who created it; to avoid the supposed dangers of which, it is proposed to resort to the novel, the hazardous, and, I must add, fatal project of giving to the General Government the sole and final right of interpreting the Constitution, thereby reversing the whole system, making that instrument the creature of its will, instead of a rule of action impressed on it at its creation, and annihilating in fact the authority which imposed it, and from which the Government itself derives its existence.

That such would be the result, were the right in question vested in the Legislative or Executive branch of the Government, is conceded by all. No one

has been so hardy as to assert that Congress or the President ought to have the right, or to deny that, if vested finally and exclusively in either, the consequences which I have stated would not necessarily follow; but its advocates have been reconciled to the doctrine, on the supposition that there is one department of the General Government, which, from its peculiar organization, affords an independent tribunal through which the Government may exercise the high authority, which is the subject of consideration, with perfect safety to all.

I yield, I trust, to few in my attachment to the Judiciary Department. I am fully sensible of its importance, and would maintain it to the fullest extent in its constitutional powers and independence; but it is impossible for me to believe that it was ever intended by the Constitution, that it should exercise the power in question, or that it is competent to do so, and, if it were, that it would be a safe depository of the power.

Its powers are judicial and not political, and are expressly confined by the Constitution "to all cases in law and equity arising under this Constitution, the laws of the United States, and the treaties made, or which shall be made, under its authority;" and which I have high authority in asserting, excludes political questions, and comprehends those only where there are parties amenable to the process of the Court.\* Nor is its incompetency less clear, than its want of constitutional authority. There may be many and the most dangerous infractions on the part of Congress, of which, it is conceded by all, the court, as a judicial tribunal, cannot from its nature take cognizance. The Tariff itself is a strong case in point: and the reason applies equally to all others, *where Congress perverts a power from an object intended to one not intended, the most insidious and dangerous of all the infractions; and which may be extended to all of its powers, more especially to the taxing and appropriating.* But supposing it competent to take cognizance of all infractions of every description, the insuperable objection still remains, that it would not be a safe tribunal to exercise the power in question.

It is an universal and fundamental political principle, that the power to protect, can safely be confided only to those interested in protecting, or their responsible agents—a maxim not less true in private than in public affairs. The danger in our system is, that the General Government, which represents the interests of the whole, may encroach on the States, which represent the peculiar and local interests, or that the latter may encroach on the former.

In examining this point, we ought not to forget that the Government, through all of its departments, judicial as well as others, is administered by delegated and responsible agents; and that the *power which really controls ultimately all the movements, is not in the agents, but those who elect or appoint them.* To understand then its real character, and what would be the action of the system in any supposable case, we must raise our view from the mere agents, to this high controlling power which finally impels every movement of the machine. By doing so, we shall find all under the control of the will of a majority, compounded of the majority of the States, taken as corporate bodies, and the majority of the people of the States estimated in federal numbers. These united constitute the real and final power, which impels and directs the movements of the General Government. The majority of the States elect the majority of the Senate; of the people of the States, that of the House of Representatives; the two united, the President; and the President and a majority of the Senate appoint the Judges; a majority of whom and a majority of the Senate and the House with the President, really exercise all of the powers of the Government with the exception of the cases

\* I refer to the authority of Chief Justice Marshall in the case of Jonathan Robbins. I have not been able to refer to the speech, and speak from memory.



where the constitution requires a greater number than a majority. The judges are, in fact, as truly the judicial representatives of this united majority, as the majority of Congress itself, or the President, is its legislative or executive representative; and to confide the power to the judiciary to determine finally and conclusively what powers are delegated, and what reserved, would be in reality to confide it to the majority, whose agents they are, and by whom they can be controlled in various ways; and, of course, to subject (against the fundamental principle of our system, and all sound political reasoning,) the reserved powers of the States, with all of the local and peculiar interests they were intended to protect, to the will of the very majority against which the protection was intended. Nor will the tenure by which the Judges hold their office, however valuable the provision in many other respects, materially vary the case. Its highest possible effect would be to *retard*, and not *finally* to *resist*, the will of a dominant majority.

But it is useless to multiply arguments. Were it possible that reason could settle a question where the passions and interests of men are concerned, this point would have been long since settled for ever, by the State of Virginia. The report of her Legislature, to which I have already referred, has really, in my opinion, placed it beyond controversy. Speaking in reference to this subject, it says, "It has been objected" (to the right of a State to interpose for the protection of her reserved rights) "that the judicial authority is to be regarded as the sole expositor of the Constitution; on this object it might be observed, first, that there may be instances of usurped powers which the forms of the Constitution could never draw within the control of the judicial department; secondly, that if the decision of the judiciary be raised above the sovereign parties to the Constitution, the decisions of the other departments, not carried by the forms of the Constitution before the judiciary, must be equally authoritative and final with the decision of that department. But the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases, in which all of the forms of the Constitution may prove ineffectual against infraction dangerous to the essential rights of the parties to it. The resolution supposes that dangerous powers not delegated, may not only be usurped and executed by the other departments, but that the judicial department may also exercise or sanction dangerous powers, beyond the grant of the Constitution, and consequently that the ultimate right of the parties to the Constitution to judge whether the compact has been dangerously violated, must extend to violations by one delegated authority, as well as by another—by the Judiciary, as well as by the Executive or Legislative."

Against these conclusive arguments, as they seem to me, it is objected, that if one of the party has the right to judge of infractions of the Constitution, so has the other, and that consequently in cases of contested powers between a State and the General Government, each would have a right to maintain its opinion, as is the case when sovereign powers differ in the construction of treaties or compacts, and that of course it would come to be a mere question of force. The error is in the assumption that the General Government is a party to the constitutional compact. The States, as has been shown, formed the compact, acting as sovereign and independent communities. The General Government is but its creature; and though in reality a government with all the rights and authority which belong to any other government, within the orb of its powers, it is, nevertheless, a government emanating from a compact between sovereigns, and partaking, in its nature and object, of the character of a joint commission, appointed to superintend and administer the interests in which all are jointly concerned, but having, beyond its proper sphere, no more power than if it did not exist. To deny this would be to deny the most incontestible facts, and the clearest conclusions; while to acknowledge its truth, is to destroy utterly the objection that the appeal would be to force, in the case supposed. For if each party has a right to judge, then

under our system of government, the final cognizance of a question of contested power would be in the States, and not in the General Government. It would be the duty of the latter, as in all similar cases of a contest between one or more of the principals and a joint commission or agency, to refer the contest to the principals themselves. Such are the plain dictates of reason and analogy both. On no sound principle can the agents have a right to final cognizance, as against the principals, much less to use force against them, to maintain their construction of their powers. Such a right would be monstrous : and has never, heretofore, been claimed in similar cases.

That the doctrine is applicable to the case of a contested power between the States and the General Government, we have the authority not only of reason and analogy, but of the distinguished statesman already referred to. Mr. Jefferson, at a late period of his life, after long experience and mature reflection, says, "With respect to our State and Federal Governments, I do not think their relations are correctly understood by foreigners. They suppose the former subordinate to the latter. This is not the case. They are co-ordinate departments of one simple and integral whole. But you may ask if the two departments should claim each the same subject of power, where is the umpire to decide between them? In cases of little urgency or importance, the prudence of both parties will keep them aloof from the questionable ground ; but if it can neither be avoided nor compromised, a convention of the States must be called to ascribe the doubtful power to that department which they may think best."—It is thus that our Constitution, by authorizing amendments, and by prescribing the authority and mode of making them, has by a simple contrivance, with its characteristic wisdom, provided a power which, in the last resort, supersedes effectually the necessity and even the pretext for force ; a power to which none can fairly object ; with which the interests of all are safe ; which can definitely close all controversies in the only effectual mode, by freeing the compact of every defect and uncertainty, by an amendment of the instrument itself. It is impossible for human wisdom, in a system like ours, to devise another mode which shall be safe and effectual, and at the same time consistent with what are the relations and acknowledged powers of the two great departments of our Government. It gives a beauty and security peculiar to our system, which, if duly appreciated, will transmit its blessings to the remotest generations ; but, if not, our splendid anticipations of the future will prove but an empty dream. Stripped of all its covering, and the naked question is, whether ours is a federal or a consolidated government ; a constitutional or absolute one ; a government resting ultimately on the solid basis of the sovereignty of the States, or on the unrestrained will of a majority ; a form of Government, as in all other unlimited ones, in which injustice and violence, and force, must finally prevail. *Let it never be forgotten, that where the majority rules the minority is the subject ;* and that if we should absurdly attribute to the former the exclusive right of construing the constitution, there would be in fact between the sovereign and subject, under such a government, no constitution ; or at least nothing deserving the name, or serving the legitimate object of so sacred an instrument.

How the States are to exercise this high power of interposition which constitutes so essential a portion of their reserved rights that it *cannot be delegated without an entire surrender of their sovereignty*, and converting our system from a federal into a consolidated government, is a question that the States only are competent to determine. The arguments which prove that they possess the power, equally prove that they are, in the language of Jefferson, "*the rightful judges of the mode and measure of redress.*" But the spirit of forbearance, as well as the nature of the right itself, forbids a recourse to it, except in cases of dangerous infractions of the constitution ; and then only in the last resort, when all reasonable hope of relief from the ordinary action of the government has failed ; when if the right to interpose did



not exist, the alternative would be submission and oppression on one side, or resistance by force on the other. That our system should afford, in such extreme cases, an intermediate point between these dire alternatives, by which the government may be brought to a pause, and thereby an interval obtained to compromise differences, or, if impracticable, be compelled to submit the question to a constitutional adjustment, through an appeal to the States themselves, is an evidence of its high wisdom; an element not, as is supposed by some, of weakness, but of strength; not of anarchy or revolution, but of peace and safety. *Its general recognition would of itself, in a great measure, if not altogether, supersede the necessity of its exercise, by impressing on the movements of the Government that moderation and justice so essential to harmony and peace, in a country of such vast extent and diversity of interests as ours; and would, if controversy should come, turn the resentment of the aggrieved from the system to those who had abused its powers, (a point all important,) and cause them to seek redress, not in revolution or overthrow, but in reformation.* It is, in fact, properly understood, *a substitute where the alternative would be force, tending to prevent, and if that fails, to correct peaceably the aberrations to which all political systems are liable, and which, if permitted to accumulate, without correction, must finally end in a general catastrophe.*

I have now said what I intended in reference to the abstract question of the relation of the States to the General Government, and would here conclude, did I not believe that a mere general statement on an abstract question, without including that which may have caused its agitation, would be considered by many imperfect and unsatisfactory. Feeling that such would be justly the case, I am compelled, reluctantly, to touch on the Tariff, so far, at least, as may be necessary to illustrate the opinions which I have already advanced. Anxious, however, to intrude as little as possible on the public attention, I will be as brief as possible: and with that view will, as far as may be consistent with my object, avoid all debateable topics.

Whatever diversity of opinion may exist in relation to the principle, or the effect on the productive industry of the country, of the present, or any other Tariff of protection, there are certain political consequences flowing from the present, which none can doubt, and all must deplore. It would be in vain to attempt to conceal, that it has divided the country into two great geographical divisions, and arrayed them against each other, in opinion; at least, if not interests also, on some of the most vital of political subjects; on its finance, its commerce, and its industry; subjects calculated, above all others, in time of peace, to produce excitement, and in relation to which, the Tariff has placed the sections in question in deep and dangerous conflict. If there be any point on which the (I was going to say—Southern section, but to avoid, as far as possible, the painful feelings such discussions are calculated to excite, I shall say—) weaker of the two sections is unanimous, it is that its prosperity depends, in a great measure, on free trade, light taxes, economical, and, as far as possible, equal disbursements of the public revenue, and an unshackled industry, leaving them to pursue whatever may appear most advantageous to their interests. From the Potomac to the Mississippi, there are few, indeed, however divided on other points, who would not, if dependent on their volition, and if they regarded the interest of their particular section only, remove from commerce and industry every shackle, reduce the revenue to the lowest point that the wants of the Government fairly required, and restrict the appropriations to the most moderate scale, consistent with the peace, the security, and the engagements of the public; and who do not believe that the opposite system is calculated to throw on them an unequal burthen, to repress their prosperity, and to encroach on their enjoyment.

On all these deeply important measures, the opposite opinion prevails; if not with equal unanimity, with at least a greatly preponderating majority, in the other and stronger section; so much so, that no two distinct nations ever en-

certained more opposite views of policy than these two sections do, on all the important points to which I have referred. Nor is it less certain that this unhappy conflict, flowing directly from the Tariff, has extended itself to the halls of legislation, and has converted the deliberations of Congress into an annual struggle between the two sections; the stronger to maintain and increase the superiority it has already acquired, and the other to throw off or diminish its burdens; a struggle in which all the noble and generous feelings of patriotism are gradually subsiding into sectional and selfish attachments.\* Nor has the effect of this dangerous conflict ended here. It has not only divided the two sections on the important point already stated, but on the deeper and more dangerous questions, the constitutionality of a protective Tariff, and the general principles and theory of the Constitution itself; the stronger, in order to maintain their superiority, giving a construction to the instrument which the other believes would convert the General Government into a consolidated, irresponsible Government, with the total destruction of liberty; and the weaker, seeing no hope of relief with such assumption of powers turning its eye to the reserved sovereignty of the States, as the only refuge from oppression. I shall not extend these remarks, as I might, by showing that, while the effect of the system of protection was rapidly alienating one section, it was not less rapidly, by its necessary operation, distracting and corrupting the other; and between the two, subjecting the administration to violent and sudden changes, totally inconsistent with all stability and wisdom in the management of the affairs of the nation, of which we already see fearful symptoms. Nor do I deem it necessary to inquire whether this unhappy conflict grows out of true or mistaken views of interest on either or both sides. Regarded in either light, it ought to admonish us of the extreme danger to which our system is exposed, and the great moderation and wisdom necessary to preserve it. If it comes from mistaken views; if the interests of the two sections as affected by the Tariff be really the same, and the system, instead of acting unequally, in reality diffuses equal blessings, and imposes equal burdens on every part, it ought to teach us how liable those who are differently situated, and who view their interests under different aspects, are to come to different conclusions, even when their interests are strictly the same; and, consequently, with what extreme caution any system of policy ought to be adopted, and with what a spirit of moderation pursued, in a country of such great extent and diversity as ours. But if, on the contrary, the conflict springs really from contrariety of interests; if the burden be on one side and the benefit on the other; then are we taught a lesson not less important, how little regard we have for the interests of others while in pursuit of our own, or at least, how apt we are to consider our own interest the interest of all others; and, of course, how great the danger in a country of such acknowledged diversity of interests, of the oppression of the feeble by the stronger interest, and, in consequence of it, of the most fatal sectional conflicts. But whichever may be the cause, the real or supposed diversity of interest, it cannot be doubted that the political consequences of the prohibitory system, be its effects in other respects beneficial or otherwise, are really such as I have stated; nor can it be doubted, that a conflict between the great sections on questions so vitally important, indicates a condition of the country so dis-tempered and dangerous, as to demand the most serious and prompt attention. It is only when we come to consider of the remedy, that under the aspect I am viewing the subject, there can be, among the informed and considerate, any diversity of opinion.

Those who have not duly reflected on its dangerous and inveterate character, suppose that the disease will cure itself; that events ought to be left to take their own course; and that experience, in a short time, will prove that

\* The system, if continued, must end, not only in subjecting the industry and property of the weaker section to the control of the stronger, but in proscription and political disfranchisement. It must finally control elections and appointments to offices, as well as acts of legislation, to the great increase of the feelings of animosity, and of the fatal tendency to a complete alienation between the sections.



the interest of the whole community is the same in reference to the Tariff, or at least, whatever diversity there may now be, time will assimilate. Such has been their language from the beginning, but unfortunately the progress of events has been the reverse. The country is now more divided than in 1824, and then more than in 1816. The majority may have increased, but the opposite sides are beyond dispute more determined and excited than at any preceding period. Formerly the system was resisted mainly as inexpedient; but now as unconstitutional, unequal, unjust, and oppressive. Then relief was sought exclusively from the General Government; but now many, driven to despair, are raising their eyes to the reserved sovereignty of the States as the only refuge. If we turn from the past and present to the future, we shall find nothing to lessen, but much to aggravate the danger. The increasing embarrassment and distress of the staple States, the growing conviction from experience, that they are caused by the prohibitory system principally, and that, under its continued operation, their present pursuits must become profitless, and with a conviction that their great and peculiar agricultural capital cannot be diverted from its ancient and hereditary channels without ruinous losses, all concur to increase, instead of dispelling, the gloom that hangs over the future. In fact, to those who will duly reflect on the subject, the hope that the disease will cure itself must appear perfectly illusory. The question is in reality one between the exporting and non-exporting interests of the country. *Were there no exports, there would be no Tariff.* It would be perfectly useless. On the contrary, so long as there are States which raise the great agricultural staples with the view of obtaining their supplies, and which must depend on the general market of the world for their sales, the conflict must remain if the system should continue, and the disease become more and more inveterate. Their interest, and that of those who by high duties would confine the purchase of their supplies to the home market, must, from the nature of things in reference to the Tariff, be in conflict. Till then, we cease to raise the great staples, cotton, rice, and tobacco, for the general market, and till we can find some other profitable investment for the immense amount of capital and labor now employed in their production, the present unhappy and dangerous conflict cannot terminate, unless with the prohibitory system itself.

In the mean time, while idly waiting for its termination through its own action, the progress of events in another quarter is rapidly bringing the contest to an immediate and decisive issue. We are fast approaching a period very novel in the history of nations, and bearing directly and powerfully on the point under consideration, the final payment of a long-standing funded debt—a period that cannot be sensibly retarded, or the natural consequences of it eluded, without proving disastrous to those who attempt either, if not to the country itself. When it arrives, the Government would find itself in possession of a surplus revenue of \$10,000,000 or \$12,000,000, if not previously disposed of, which presents the important question, what previous disposition ought to be made—a question which must press urgently for decision at the very next session of Congress. It can not be delayed longer without the most distracting and dangerous consequences.

The honest and obvious course is, to prevent the accumulation of the surplus in the Treasury by a timely and judicious reduction of the imposts; and thereby to leave the money in the pockets of those who made it, and from whom it cannot be honestly nor constitutionally taken, unless required by the fair and legitimate wants of the Government. If, neglecting a disposition so obvious and just, the Government should attempt to keep up the present high duties, when the money was no longer wanted, or to dispose of this immense surplus by enlarging the old, or devising new schemes of appropriations; or, finding that to be impossible, it should adopt the most dangerous, unconstitutional, and absurd project ever devised by any Government, of dividing the surplus among the States—(a project which, if carried into execution, would not fail to create an antagonist interest between the States and General Government, on all questions of appropriations, which would certainly end in reducing the latter

to a mere office of collection and distribution)—either of these modes would be considered by the section suffering under the present high duties, as a fixed determination to perpetuate forever what it considers the present unequal, unconstitutional, and oppressive burden; and from that moment it would cease to look to the General Government for relief. This deeply interesting period, which must prove so disastrous, should a wrong direction be given, but so fortunate and glorious, should a right one, is just at hand. The work must commence at the next session, as I have stated, or be left undone, or, at least, be badly done. The succeeding session would be too short and too much agitated by the presidential contest, to afford the requisite leisure and calmness; and the one succeeding would find the country in the midst of the crisis, when it would be too late to prevent an accumulation of the surplus; which I hazard nothing in saying, judging from the nature of men and government, if once permitted to accumulate, would create an interest strong enough to perpetuate itself, supported, as it would be, by others so numerous and powerful; and thus would pass away a moment, never to be quietly recalled, so precious, if properly used, to lighten the public burden; to equalize the action of the Government; to restore harmony and peace; and to present to the world the illustrious example, which could not fail to prove most favorable to the great cause of liberty every where, of a nation the freest, and, at the same time, the best and most cheaply governed; of the highest earthly blessing, at the least possible sacrifice.

As the disease will not, then, heal itself, we are brought to the question, can a remedy be applied; and, if so, what ought it to be?

To answer in the negative would be to assert that our Union has utterly failed; and that the opinion, so common before the adoption of our Constitution, that a free Government could not be practically extended over a large country, was correct; and that ours had been destroyed by giving it limits so great as to comprehend not only dissimilar but irreconcilable interests. I am not prepared to admit a conclusion that would cast so deep a shade on the future, and that would falsify all the glorious anticipations of our ancestors, while it would so greatly lessen their high reputation for wisdom. Nothing but the clearest demonstration, founded on actual experience, will ever force me to a conclusion so abhorrent to all of my feelings. As strongly as I am impressed with the great dissimilarity, and as I must add as truth compels me to do, contrariety of interests, in our country, resulting from the causes already indicated, and which are so great that they cannot be subjected to the unchecked will of a majority of the whole, without defeating the great end of government, and without which it is a curse—justice; yet I see in the Union, as ordained by the Constitution, the means, if wisely used, not only of reconciling all diversities, but also the means, and the only effectual one, of securing to us justice, peace, and security, at home and abroad, and with them that national power and renown, the love of which Providence has implanted, for wise purposes, so deeply in the human heart; in all of which great objects, every portion of our country, widely extended and diversified as it is, has a common and identical interest. If we have the wisdom to place a proper relative estimate on these more elevated and durable blessings, the present and every other conflict of like character may be readily terminated; but if, reversing the scale, each section should put a higher estimate on its immediate and peculiar gains; and, acting in that spirit, should push favorite measures of mere policy, without some regard to peace, harmony, or justice, our sectional conflicts would then indeed, without some constitutional check, become interminable, except by the dissolution of the Union itself. That we have, in fact, so reversed the estimate is too certain to be doubted, and the result is our present distempered and dangerous condition. The cure must commence in the correction of the error; and not to admit that we have erred would be the worst possible symptom. It would prove the disease to be incurable, through the regular and ordinary process of legislation; and would compel, finally, a resort to extraordinary, but I still trust, not only constitutional but safe remedies.



No one would more sincerely rejoice than myself to see the remedy applied from the quarter where it could be most easily and regularly done. It is the only way by which those who think that it is the only quarter from which it can constitutionally come, can possibly sustain their opinion. To omit the application, by the General Government, would compel even them to admit the truth of the opposite opinion, or force them to abandon our political system in despair; while, on the other hand, all their enlightened and patriotic opponents would rejoice at such evidence of moderation and wisdom, on the part of the General Government, as would supersede a resort to what they believe to be the higher powers of our political system, as indicating a sounder state of public sentiment than has ever heretofore existed in any country, and thus affording the highest possible assurance of the perpetuation of our glorious institutions to the latest generation. For, as a people advance in knowledge, in the same degree they may dispense with mere artificial restrictions in their Government; and we may imagine (but dare not expect to see it) a state of intelligence so universal and high that all the guards of liberty may be dispensed with except an enlightened public opinion, acting through the right of suffrage; but it pre-supposes a state where every class and every section of the community are capable of estimating the effects of every measure, not only as it may affect itself, but every other class and section; and of fully realising the sublime truth that the highest and wisest policy consists in maintaining justice, and promoting peace and harmony; and that, compared to these schemes of mere gain are but trash and dross. I fear experience has already proved that we are far removed from such a state, and that we must consequently rely on the old and clumsy, but approved mode, of checking power, in order to prevent or correct abuses; but I do trust that though far from perfect, we are at least so much so as to be capable of remedying the present disorder in the ordinary way; and thus to prove that with us public opinion is so enlightened and our political machine so perfect as rarely to require for its preservation the intervention of the power that created it. How is that to be effected?

The application may be painful, but the remedy, I conceive, is certain and simple. There is but one effectual cure, an honest reduction of the duties to a fair system of revenue, adapted to the just and constitutional wants of the Government. Nothing short of this will restore the country to peace, harmony, and mutual affection. There is already a deep and growing conviction, in a large section of the country, that the imposts, even as a revenue system, is extremely unequal, and that it is mainly paid by those who furnish the means of paying the foreign exchanges of the country on which it is laid; and that the case is not varied, taking into the estimate the entire action of the system, whether the producer or consumer pays in the first instance.

I do not propose to enter formally into the discussion of a point so complex and contested; but as it has necessarily a strong practical bearing on the subject under consideration, in all its relations, I cannot pass it without a few general and brief remarks:

If the producer in reality pays, none will doubt but the burden would mainly fall on the section it is supposed to do. The theory that the consumer pays in the first instance, renders the proposition more complex, and will require, in order to understand where the burden in reality ultimately falls, on that supposition to consider the protective, or as its friends call it, the American System, under its three-fold aspect of taxation, of protection, and of distribution, or as performing, at the same time, the several functions of giving a revenue to the Government, of affording protection to certain branches of domestic industry, and furnishing means to Congress of distributing large sums, through its appropriations; all of which are so blended in their effects, that it is impossible to understand its true operation, without taking the whole into the estimate.

Admitting then, as supposed, that he who consumes the article pays the tax in the increased price, and that the burden falls wholly on the consumers,

without affecting the producers as a class, (which, by the by, is far from being true, except in the single case, if there be such a one, where the producers have a monopoly of an article, so indispensable to life, that the quantity consumed cannot be affected by any increase of price,) and that considered in the light of a tax, merely, the impost duties fall equally on every section in proportion to its population, still when combined with its other effects, the burden it imposes, as a tax, may be so transferred from one section to the other, as to take it from one and place it wholly on the other. Let us apply the remark first to its operation as a system of protection:

The tendency of the tax, or duty, on the imported article is, not only to raise its price, but also, in the same proportion, that of the domestic article of the same kind, for which purpose, when intended for protection, it is in fact laid; and of course, in determining where the system ultimately places the burden in reality, this effect also must be taken into the estimate. If one of the sections exclusively produces such domestic articles, and the other purchases them from it, then it is clear that, to the amount of such increased prices, the tax or duty on the consumption of foreign articles, would be transferred from the section producing the domestic articles to the one that purchased and consumed them, unless the latter, in turn, be indemnified by the increased price of the objects of its industry, which none will venture to assert to be the case with the great staples of the country, which form the basis of our exports, the price of which is regulated by the foreign and not the domestic market. To those who grow them, the increased price of the foreign and domestic articles both, in consequence of the duty on the former, is in reality and in the strictest sense, a tax, while it is clear that the increased price of the latter acts as a bounty to the section producing them, and that as the amount of such increased prices, on what it sells to the other section, is greater or less than the duty it pays on the imported articles, the system will in fact operate as a bounty or tax; if greater, the difference would be a bounty; if less, a tax.

Again, the operation may be equal in every other respect, and yet the pressure of the system, relatively, on the two sections, be rendered very unequal by the appropriations or distribution. If each section receives back what it paid into the treasury, the equality if it previously existed will continue; but if one receives back less, and the other proportionably more than is paid, then the difference in relation to the sections will be to the former a loss, and to the latter a gain; and the system in this aspect would operate to the amount of the difference, as a contribution from the one receiving less than it paid to the other that receives more. Such would be incontestibly its general effects, taken in all its different aspects, even on the theory supposed to be most favorable to prove the equal action of the system, that the consumer pays in the first instance the whole amount of the tax.

To show how, on this supposition, the burden and advantages of the system would actually distribute themselves between the sections, would carry me too far into details; but I feel assured, after full and careful examination, that they are such as to explain what otherwise would seem inexplicable, that one section should consider its repeal a calamity and the other a blessing; and that such opposite views should be taken by them, as to place them in a state of determined conflict in relation to the great fiscal and commercial interests of the country. Indeed were there no satisfactory explanation, the opposite views that prevail in the two sections, as to the effects of the system, ought to satisfy all of its unequal action. There can be no safer, or more certain rule, than to suppose each portion of the country equally capable of understanding their respective interest; and that each is a much better judge of the effects of any system or measures on its peculiar interest, than the other can possibly be.

But whether the opinion of its unequal action be correct or erroneous, nothing can be more certain than that the impression is widely extending itself, that the system, under all its modifications, is essentially unequal; and if to



that be added a conviction still deeper, and more universal, that every duty imposed for the purpose of protection, is not only unequal, but also unconstitutional, it would be a fatal error to suppose that any remedy, short of that which I have stated, can heal our political disorders.

In order to understand more fully the difficulty of adjusting this unhappy contest on any other ground, it may not be improper to present a general view of the constitutional objection, that it may be clearly seen how hopeless it is to expect that it can be yielded by those who have embraced it.

They believe that all the powers, vested by the constitution in congress, are not only restricted by the limitations expressly imposed, but also by the nature and object of the powers themselves. Thus, though the power to impose duties on imports be granted in general terms, without any other express limitations but that they shall be equal, and no preference shall be given to the ports of one State over those of another, yet as being a portion of the taxing power, given with the view of raising revenue, it is from its nature restricted to that object, as much so as if the Convention had expressly so limited it; and that to use it to effect any other purpose, not specified in the Constitution, is an infraction of the instrument in its most dangerous form—an infraction by perversion, more easily made, and more difficult to resist, than any other. The same view is believed to be applicable to the power of regulating commerce, as well as all the other powers. To surrender this important principle, it is conceived, would be to surrender all power, and to render the government unlimited and despotic; and to yield it up, in relation to the particular power in question, would be in fact to surrender the control of the whole industry and capital of the country to the General Government; and would end in placing the weaker section in a colonial relation with the stronger. For nothing are more dissimilar in their nature, or may be more unequally affected by the same laws, than different descriptions of labor and property; and if taxes, by increasing the amount and changing the intent only, may be perverted, in fact, into a system of penalties and rewards, it would give all the power that could be desired to subject the labor and property of the minority to the will of the majority, to be regulated without regarding the interest of the former, in subserviency to the will of the latter. Thus thinking it would seem unreasonable to expect, that any adjustment, based on the recognition of the correctness of a construction of the Constitution, which would admit the exercise of such a power, would satisfy the weaker of two sections, particularly with its peculiar industry and property, which experience has shown may be so injuriously effected by its exercise. Thus much for one side.

The just claim of the other ought to be equally respected. Whatever excitement the system has justly caused, in certain portions of our country, I hope, and believe, all will conceive that the change should be made with the least possible detriment to the interests of those who may be liable to be affected by it, consistently with what is justly due to others and the principles of the Constitution. To effect this, will require the kindest spirit of conciliation, and the utmost skill; but, even with these, it will be impossible to make the transition, without a shock greater or less; though I trust, if judiciously effected, it will not be without many compensating advantages. That there will be some such cannot be doubted. It will, at least, be followed by greater stability, and will tend to harmonize the manufacturing with all of the other great interests of the country, and bind the whole in mutual affection. But these are not all. Another advantage of essential importance to the ultimate prosperity of our manufacturing industry will follow. *It will cheapen production*; and, in that view, the loss of any one branch, will be nothing like in proportion to the reduction of duty on that particular branch. Every reduction will, in fact, operate as a bounty to every other branch, except the one reduced; and thus the effect of a general reduction will be to cheapen,

universally, the price of production, by cheapening living, wages and materials; so as to give, if not equal profits after the reduction, profits by no means reduced proportionally to the duties; an effect which, as it regards the foreign markets, is of the utmost importance. It must be apparent on reflection, that the means adopted to secure the home market for our manufactures, are precisely the opposite of those necessary to obtain the foreign. In the former, the increased expense of production in consequence of a system of protection may be more than compensated by the increased price at home of the article protected; but, in the latter this advantage is lost, and as there is no other corresponding compensation, the increased cost of production must be a dead loss in the foreign market. But whether these advantages, and many others that might be mentioned, will ultimately compensate to the full extent or not the loss to the manufacturers on the reduction of the duties, certain it is, that we have approached a point at which a great change cannot be much longer delayed; and that the more promptly it may be met, the less excitement there will be, and the greater leisure and calmness for a cautious and skilful operation in making the transition; and which it becomes those more immediately interested duly to consider. Nor ought they overlook, in considering the question, the different character of the claims of the two sides. The one asks from Government no advantage, but simply to be let alone in the undisturbed possession of their natural advantages, and to secure which as far as was consistent with the other objects of the Constitution, was one of their leading motives in entering into the Union; while the other side claims, for the advancement of their prosperity, the positive interference of the Government. In such cases, on every principle of fairness and justice, such interference ought to be restrained within limits strictly compatible with the natural advantages of the other. He who, looking to all of the causes in operation, the near approach of the final payment of the public debt; the growing disaffection and resistance to the system, in so large a section of the country; the deeper principles on which opposition to it is gradually turning; must be, indeed, infatuated not to see a great change is unavoidable; and that the attempt to elude or much longer delay it, must finally but increase the shock, and disastrous consequences which may follow.

In forming the opinions I have expressed, I have not been actuated by an unkind feeling towards our manufacturing interest. I now am, and ever have been decidedly friendly to them, though I cannot concur in all of the measures which have been adopted to advance them. I believe considerations higher than any question of mere pecuniary interest, forbade their use. But subordinate to these higher views of policy, I regard the advancement of mechanical and chemical improvements in the arts with feelings little short of enthusiasm; not only as the prolific source of national and individual wealth, but as the great means of enlarging the domain of man over the material world; and thereby, of laying the solid foundation of a highly improved condition of society, morally and politically. I fear not that we shall extend our power too far over the great agents of nature; but on the contrary, I consider such enlargement of our power, as tending more certainly and powerfully, to better the condition of our race, than any one of the many powerful causes now operating to that result. With these impressions, I not only rejoice at the general progress of the arts in the world, but in their advancement in our own country; and, as far as protection can be incidentally afforded, in the fair and honest exercise of our constitutional powers, I think now, as I have always done, that sound policy, connected with the security, independence and peace of the country, requires them to be protected, but that we cannot go a single step beyond without jeopardizing our peace, our harmony, and our liberty; considerations of infinitely more importance to us than any measure of mere policy, can possibly be.

In thus placing my opinions before the public, I have not been actuated by



the expectation of changing the public sentiment. Such a motive, on a question so long agitated, and so beset with feelings of prejudice and interest, would argue, on my part, an insufferable vanity, and a profound ignorance of the human heart. To avoid, as far as possible, the imputation of either, I have confined my statement on the many and important points on which I have been compelled to touch, to a simple declaration of my opinion, without advancing any other reasons to sustain them, than what appeared to me to be indispensable to the full understanding of my views, and if they should, on any point, be thought to be not clearly and explicitly developed, it will, I trust, be attributed to my solicitude to avoid the imputations to which I have alluded, and not from any desire to disguise my sentiments; nor the want of arguments and illustrations to maintain positions, which so abound in both, that it would require a volume to do them any thing like justice. I can only hope that truths, which I feel assured are essentially connected with all that we ought to hold most dear, may not be weakened in the public estimation by the imperfect manner in which I have been, by the object in view, compelled to present them.

With every caution on my part, I dare not hope, in taking the step I have, to escape the imputation of improper motives; though I have, without reserve, freely expressed my opinions, not regarding whether they might or might not, be popular. I have no reason to believe that they are such as will conciliate public favor, but the opposite; which I greatly regret, as I have ever placed a high estimate on the good opinion of my fellow citizens. But, be that as it may, I shall, at least, be sustained by feelings of conscious rectitude. I have formed my opinions after the most careful and deliberate examination, with all the aids which my reason and experience could furnish: I have expressed them honestly and fearlessly, regardless of their effects personally, which, however interesting to me individually, are of too little importance to be taken into the estimate, where the liberty and happiness of our country are so vitally involved.

Fort Hill, July 26th, 1831.

JOHN C. CALHOUN.

## MR. JEFFERSON, THE AUTHOR OF THE KENTUCKY RESOLUTIONS.

*From the Richmond Enquirer, March 13.*

### NULLIFICATION.—AN ERROR CORRECTED.

We have come before the public to correct an error into which we have betrayed them. Some of the politicians of South Carolina had maintained the opinion that Mr. Jefferson was not only the friend, but the father of the doctrine of Nullification—and their principal argument was, that he was the author of the Kentucky Resolutions of '99, as well as those of '98—and that in those of '99, is to be found the memorable passage, that "The several States who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction; and that a nullification, by those sovereignties of all unauthorised acts, done under colour of that instrument, is the rightful remedy."

We had a great curiosity to ascertain the truth of this opinion. We hunted up all the facts that were within our reach; weighed them as impartially as we could; and we arrived at a different conclusion from that of the State Right Politicians of South Carolina. We expressed our opinions in the Enquirer of the 13th of September last.

We have now to state our conviction, **THAT WE WERE WRONG, AND THE SOUTH CAROLINIANS WERE RIGHT, AS TO MR. JEFFERSON'S OPINIONS.** A small MS. book has been found among his papers, which, with other articles, contains two copies in his own hand writing;

that appear to have been the original of Kentucky Resolutions. The first of these is blurred, and much corrected, with passages struck out, and others interlined. The other is a fair and later copy, judging from the color of the paper and of the ink, of Mr. J's draught. We are indebted to his grandson for the permission to examine these MS. and compare them with the printed copies of the Kentucky Resolutions—and for the opportunity of correcting our own mistake, and of laying the following result before our readers:

KENTUCKY RESOLUTIONS—Nov. 10, 1798.

The first seven of these resolutions, are the same with those of Mr Jefferson's draught, with the exception of a word, here and there. For instance, where the *1st Resolution* uses this phrase "as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress"—Mr. J uses the word "*powers*" instead of "parties."

In the *2d Res.* the date of the Bank bill is left blank in the MS.—and the word "so" is put in before the word "enumerated."

*3d Res.*, the words "entitled to act" are put into the title of Sedition act, "an act, in addition to the act, *entitled an act.*" &c.—and the last word of the resolution ("altogether void, and of no effect") is put in the MS. "*force.*"

*4th Res.*, the *day of the month* in reciting the title of the Alien Act is omitted in the MS

*6th Res.*—"without *having* witnesses in his favor," is in the MS. "without *hearing.*" &c.—and in the same resolution, in speaking of the President, "who already possesses all the Executive, and *qualified* negative in all the Legislative powers," the word *qualified* is not used by Mr. J.

*7th Res. 2d line*—Mr. J. uses the word "*evidenced.*" instead of "*evinced.*" And further on, the words "*or officer*" is put in after "or any department." "The whole residue of *the instrument,*" is put "the whole residue of *that instrument*"—"Will be a fit and necessary subject *for* revision," is put "of revision." &c.

The *8th Resolution* in the Kentucky paper does not appear in the MS.—Resolutions, viz: "*Resolved.* That the preceding resolutions be transmitted to the Senators and Representatives in Congress from this Commonwealth, who are hereby enjoined to present the same to their respective Houses, and use their best endeavors to procure at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts."

But it is in the 9th Resolution, that the material variation occurs. We print this resolution so as to show both the shape in which it was adopted by the Legislature of Kentucky—viz: The words in *italics* are those which are *substituted* by the Legislature—and those in brackets [ ] are such as appear in the MS. They run thus:

*Resolved, lastly.* That the Governor of this Commonwealth be, and is hereby authorized and requested [a committee of conference and correspondence be appointed, who shall have in charge] to communicate the preceding resolutions to the Legislatures of the several States, to assure them that this Commonwealth [continues in the same esteem for their friendship and union, which it has manifested, from that moment at which a common danger first suggested a common union; that it,] considers Union for specified National purposes, and particularly for those specified in their late Federal compact, to be friendly to the peace, happiness, and prosperity of all the States: that faithful to that compact, according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation: that it does also believe, that to take from the States all the powers of self-government, and transfer them to a general and consolidated Government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of these States; And that, therefore, this Commonwealth is determin-



ed, as it doubts not its Co States are *tamely* [no such word in the MS.] to submit to undelegated, and consequently unlimited, powers in no man or body of men on earth: [That in cases of an abuse of the delegated powers, the members of the General Government being chosen by the people, a change by the People would be the Constitutional Remedy; but where powers are assumed which have not been delegated, A NULLIFICATION OF THE ACT IS THE RIGHTFUL REMEDY: that every State has a natural right in cases not within the compact (*casus non fœderis*) to nullify of their own authority all assumptions of powers by others within their limits: that without this right they would be under the dominion, absolute and unlimited, of whoever might exercise this right of judgment for them: that nevertheless this Commonwealth, from motives of regard and respect for its Co-States, has wished to communicate with them on the subject: that with them alone it proposes to communicate, they alone being parties to the compact, and solely authorised to judge in the last resort of the powers exercised under it—Congress being not a party, but merely the creature of the compact, and subject as to its assumption of its powers to the final judgment of those by whom and for whose use itself and its powers were all created:] that if the acts before specified should stand, these conclusions would flow from them; that the General Government may place any act they think proper on the list of crimes, and punish it themselves, whether enumerated or not enumerated by the constitution as cognizable by them; that they may transfer its cognizance to the President or any other person, who may himself be the accuser, counsel, judge and jury whose *suspensions* may be the evidence, his order the sentence, his officer, the executioner, and his breast the sole record of the transaction; that a very numerous and valuable description of the inhabitants of these States, being by this precedent reduced as outlaws to the absolute dominion of one man, and the barrier of the Constitution thus swept away from us all, no rampart now remains against the passions and the power of a majority of [in] Congress to protect from a like exportation to other more grievous punishment the minority of the same body, the Legislatures, Judges, Governors and Counsellors of the States, nor their other peaceable inhabitants, who may venture to reclaim the Constitutional rights and liberties of the States and people; or, who for other causes good or bad, may be obnoxious to the views, or marked by the suspicions of the President, or be thought dangerous to his or their elections or other interests, public or personal; that the friendless alien has indeed been selected as the safest subject of a first experiment; but the citizen will soon follow, or rather has already followed; for, already has a Sedition Act marked him as its prey; that these and successive acts of the same character, unless arrested on [at] the threshold, *may tend to* [necessarily] drive these States into revolution and blood, and will furnish new calumnies against Republican Government, and new pretexts for those who wish it to be believed, that man cannot be governed but by a rod of iron; that it would a dangerous delusion, were a confidence in the men of our choice, to silence our fears for the safety of our rights; that confidence is every where the parent of despotism; free Government is founded in jealousy and not in confidence, it is jealousy and not confidence which prescribes limited Constitutions to bind down those whom we are obliged to trust with power; that our Constitution has accordingly fixed the limits to which, and no further, our confidence may go; and let the honest advocate of confidence, read the Alien and Sedition Acts, and say if the Constitution has not been wise in fixing limits to the Government it created, and whether we should be wise in destroying those limits? Let him say what the Government is, if it be not a tyranny, which the men of our choice have conferred on the [our] President, and the President of our choice has assented to, and accepted over the friendly strangers, to whom the mild spirit of our country and its laws had pledged hospitality and protection; that the men of our choice have more respected

the bare suspicions of the President, than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice. In questions of power, then let no more be heard of confidence in man; but bind him down from mischief, by the Constitution. That this Commonwealth does therefore call on its Co-States for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes herein-before specified, plainly declaring whether these acts are or are not authorized by the Federal Compact? And it doubts not, that their sense will be so enounced, as to prove their attachment unaltered to limited government, whether general or particular, and that the rights and liberties of their Co states, will be exposed to no dangers by remaining embarked on a common bottom with their own; that they will concur with this Commonwealth in considering the said acts as so palpably against the Constitution, as to amount to an undisguised declaration, that *the* [that] compact is not meant to be the measure of powers of the General Government, but that it will proceed in the exercise over these States of all powers whatsoever; that they will view this as seizing the rights of the States, and consolidating them in the hands of the General Government, with a power assumed to bind the States, (not merely in [the] cases made Federal,) [casus fœderis] but in all cases whatsoever, by the laws made, not with their consent, but by other against their consent; that this would be to surrender the form of Government we have chosen, and to live under one deriving its powers from its own will, and not from our authority; and that the Co-states recurring to their natural right in cases, not made Federal, will concur in declaring these acts void, and of no force, and *will each unite with this Commonwealth in requesting their repeal at the next session of Congress* [EACH WILL TAKE MEASURES OF ITS OWN FOR PROVIDING THAT NEITHER THESE ACTS, NOR ANY OTHERS OF THE GENERAL GOVERNMENT NOT PLAINLY AND INTENTIONALLY AUTHORIZED BY THE CONSTITUTION, SHALL BE EXERCISED WITHIN THEIR RESPECTIVE TERRITORIES.]

[Resolved, That the said committee be authorized to communicate by writing or personal conference, at any times or places whatever, with any person or persons who may be appointed by any one or more of the States, to correspond or confer with them—and that they lay their proceedings before the next session of Assembly.]

#### KENTUCKY RESOLUTIONS OF '98.

We were right as to the style of this paper. However its sentiments may coincide with those of Mr Jefferson, the composition is not his—with one memorable exemption, "*nullification is the rightful remedy*"—thus appearing as if they had used nearly all his draught at one session, but kept up for a stronger blow, the remedy of nullification, for the subsequent session.—With the exception of this phrase, the preamble and the rest of the resolution are from a different pen. This, however, is immaterial.—The doctrine is his. The measure, too, to which they resorted, is not as distinct and immediate as his draught puts forth. They throw themselves upon a "*solemn protest*"—but he was for appointing a Committees of Conference with the other States, to decide what was to be done.

We have stated the existence and the contents of the MS. from a respect for the truth. We have contributed to the circulation of an error, and we seize the first opportunity we can to correct it.—Besides, it is due to the people, and especially to the politicians of South Carolina, to send the facts forth.

[It may be as well to remark, that in the continuation of the article which we have extracted from the *Enquirer*, the Editor states, that he is himself no nullifier, notwithstanding the authority of Mr Jefferson.—*Editor Eve. Post.*]

From the United States Telegraph.

#### IMPORTANT DOCUMENT.

We have been permitted to lay before our readers the following important extract from a letter written to the Hon. Warren R. Davis, by Mr Jefferson's grandson and executor:



RICHMOND, March 8. 1832.

Dear Sir: Last spring, when I had the pleasure of meeting you in Washington, you enquired of me if I had any evidence in my possession which would show whether Mr Jefferson was, or was not, the author of the resolutions offered by Mr Breckenridge in the Ky. Legislature in '98. I have examined and compared the MSS. in my possession with both the resolutions offered by Nicholas and Breckenridge: the first I find almost verbatim, as far as they go; the second, in part the ideas, but not the language. The MS. contains nine resolutions. Nicholas adopted seven entire, and part of the eighth. Breckenridge took the ideas in part of the omitted resolutions. I send you that omitted by Nicholas, you can best determine how far it concurs with B's.

Resolution eight, after the word, "no man or body of men on earth," add, "that in cases of the abuse of the delegated power, the members of the General Government being chosen by the people, a change by the people would be the constitutional remedy; but where powers are assumed, which have not been delegated, a nullification of the act is the rightful remedy; that every State has a natural right in cases not within the compact. [*casus non fœderis*] to nullify, of their own authority, all assumptions of power by others within their limits; that, without this right, they will be under the dominion, absolute and unlimited, of whomsoever might exercise this right of judgment for them: that nevertheless this Commonwealth, from motives of regard and respect for its Co-States, has wished to communicate with them on the subject: that with them alone it is proper to communicate, they alone being parties to the compact, and solely authorized to judge in the last resort of the power exercised under it. Congress being not a party, but merely the creature of the compact, and subject, as to its assumptions of power, to the final judgment of those by whom, and for whose use, itself and its powers were all created and modified."

Again, towards the conclusion of the same resolution, after the words, "and will each," add, "take measures of its own, for providing that neither these acts, nor any others of the General Government, not plainly and intentionally authorized by the constitution, shall be exercised within their respective territories."

"9. Resolved, That the said Committee be authorized to communicate by writing or personal conference, at any time or place whatever, with any person or persons who may be appointed by any one or more of the Co-States, to correspond or confer with them; and that they lay their proceedings before the next session of Assembly."

The above will give the whole of the MSS. omitted in the first Kentucky resolutions.—The variations in those resolutions are merely such as would occur in copying or printing. You will perceive the sentence containing the word "nullification," nearly resembling an expression in the second resolution, and that many of the ideas are the same.

ORIGINAL DRAUGHT, IN THE HAND WRITING OF MR. JEFFERSON, OF THE KENTUCKY RESOLUTIONS OF '98 AND '99.

1. Resolved, That the several States composing the United States of America, are not united on the principle of the unlimited submission to the General Government; but that by a compact under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government; and that whensoever the General Government assumes undelegated powers, its acts are unauthorized, void, and of no force; that to this compact, each State acceded as a State, and is an integral party; its co-States forming, as to itself, the other party: that the Government created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself: since that would have made its discretion, and not the Constitution, the measure of its powers;

but that, as in all other cases of compact among powers having no common judge, each party has an equal right to judge for itself; as well of infractions as of the mode and measure of redress.

2. *Resolved*, That the Constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States; piracies and felonies committed on the high seas, and offences against the law of nations, and no other crimes whatsoever; and it being true as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or the people;" therefore, the act of Congress passed on the 14th July, 1798, and entitled, "An act in addition to the act, entitled an act for the punishment of certain crimes against the United States;" as also the act passed by them on the — day of June, 1798, entitled "An act to punish frauds committed on the Bank of the United States;" [and all other their acts which assume to create, define, or punish crimes, other than those so enumerated in the Constitution,] are altogether void and of no force, and that the power to create, define and punish such other crimes is reserved, and of rights appertains solely and exclusively to the respective States, each within its own Territory.

3. *Resolved*, That it is true as a general principle, and is also expressly declared, by one of the amendments to the Constitution that the powers not delegated to the U. States by the Constitution, nor prohibited by it to the States, were reserved to the States respectively, or to the People; and that no power over the freedom of religion, freedom of speech, or freedom of the press being delegated to the U. States by the Constitution, nor prohibited by it to the States, all lawful powers respecting the same did of right remain, and were reserved to the States or the People: that thus was manifested their determination to retain themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use should be tolerated, rather than the use be destroyed; and thus also they guarded against all abridgement by the United States, of the freedom of religious opinions and exercises, and retained to themselves the right of protecting the same: as this State, by a law passed on the general demand of its citizens, had already protected them from all human restraints or interference, and that in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution, which expressly declares that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press;" thereby guarding in the same sentence and under the same words, the freedom of religion, of speech, and of the press; insomuch that whatever violates either, throws down the sanctuary which covers the others, and that libels, falsehood, and defamation, equally with heresy and false religion, are withheld from the cognizance of federal tribunals, that therefore the act of Congress of the United States, passed on the 14th day of July, 1798, entitled "An act in addition to an act, entitled an act for the punishment of certain crimes against the United States," which does abridge the freedom of the press, is not law, but is altogether void and of no force.

4. *Resolved*, That alien friends are under the jurisdiction and protection of the laws of the State wherein they are: that no power over them has been delegated to the United States; nor prohibited to the individual States, distinct from their power over citizens; and its being true as a general principle, and one of the amendments to the Constitution having also declared, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the People," the act of the Congress of the United States, passed on the — day



of July, 1798, entitled "An act concerning aliens," which assumes power over alien friends not delegated by the Constitution, is not law, but is altogether void and of no force.

5. *Resolved*, That, in addition to the general principle, as well as the express declaration, that powers not delegated are reserved, another and more special provision, inserted in the Constitution from abundant caution, has declared that "the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808;" that this commonwealth does admit the emigration of alien friends, described as the subjects of the said act concerning aliens; that a provision against prohibiting their migration, is a provision against all acts equivalent thereto, as it would be nugatory; that, to remove them when emigrated, is equivalent to a prohibition of their migration; and is, therefore, contrary to the said provision of the Constitution and void.

6. *Resolved*, That the imprisonment of a person under the protection of the laws of this Commonwealth, on his failure to obey the simple order of the President to depart out of the United States, as is undertaken by the said act, entitled "An act concerning aliens," is contrary to the Constitution, one amendment of which has provided, that "no person shall be deprived of liberty without due process of law;" and that, another having provided that, "in all criminal prosecutions the accused shall enjoy the right to a public trial by an impartial jury; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence." The same act undertaking to authorize the President of the United States to remove a person out of the United States who is under the protection of the law, on his own suspicion, without accusation, without jury, without public trial, without confrontation of the witnesses against him, without hearing witnesses in his favor, without defence, without counsel, is contrary to these provisions, also, of the Constitution; is, therefore, not law, but utterly void and of no force; that, transferring the power of judging any person, who is under the protection of the law, from the courts to the President of the U. States, as is undertaken by the same act concerning aliens, is against the article of the Constitution, which provides that "the judicial power of the United States shall be vested in courts, the judges of which shall hold their offices during good behaviour;" and that the said act is void for that reason also; and it is further to be noted, that this transfer of judiciary power is to that magistrate of the General Government who already possesses all the executive, and a negative, on all the legislative powers.

7. *Resolved*, That the construction applied by the general government, (as is evidenced by sundry of their proceedings) to those parts of the Constitution of the United States, which delegate to Congress a power "to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States, and to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States, or in any department or officer thereof," goes to the destruction of all the limits prescribed to their power by the Constitution; that words meant by that instrument to be subsidiary only to the execution of limited powers, ought not to be so construed as themselves to give unlimited powers, nor a part to be so taken as to destroy the whole residue of that instrument; that the proceedings of the General Government under colour of these articles, will be a fit and necessary subject of revisal and correction, at a time of greater tranquillity, while those specified in the preceding resolutions call for immediate redress.

8. *Resolved*, That a Committee of Conference and Correspondence be appointed, who shall have in charge to communicate the preceding resolutions to the Legislature of the several States; to assure them that this Common-

Wealth continues in the same esteem for their friendship and union which it has, and interest for a future moment at which a common danger first suggested a common union; that it considers union, for specified national purposes, and particularly for those specified in their late federal compact, to be friendly to the peace, happiness, and prosperity of all the States; that faithful to that compact, according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation; that it does also believe that to take from the States all the powers of self-government, and transfer them to a general and consolidated government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of these States; and that, therefore, this Commonwealth is determined, as it doubts not its co-States are, to submit to undelegated and consequently unlimited powers in no man, or body of men, on earth; that in cases of an abuse of the delegated powers, the members of the General Government being chosen by the people, a change by the people would be the constitutional remedy; but where powers are assumed which have not been delegated, a nullification of the act is the right remedy; that every State has a natural right, in cases not within the compact, [*casus non fœderis*,] to nullify of their own authority all assumptions of power by others within their limits: that without their right they would be under the dominion, absolute and unlimited, of whatsoever might exercise this right of judgment for them; that, nevertheless, this commonwealth, from motives of regard and respect for its co-states, has wished to communicate with them on the subject; that with them alone it is proper to communicate, they alone being parties to the compact, and solely authorized to judge in the last resort of the powers exercised under it, Congress being not a party, but merely the creature of the compact, and subject, as to its assumption of power, to the final judgment of those by whom, and for whose use, itself and its powers were all created and modified; that, if the acts before specified should stand, these conclusions would flow from them, that the General Government may place any act they think proper on the list of crimes, and punish it themselves, whether enumerated or not enumerated by the constitution as cognizable by them; that they may transfer its cognizance to the President, or any other person, who may himself be the accuser, counsel, judge, and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transactions; that a very numerous and valuable description of the inhabitants of these States, being, by this precedent, reduced as outlaws to the absolute dominion of one man, and the barrier of the constitution thus swept away for us all, no rampart now remains against the passions and the power of a majority in Congress to protect from a like exportation, or other more grievous punishment, the minority of the same body, the Legislatures, judges, governors, and counsellors of the States, nor their other peaceable inhabitants, who may venture to reclaim the constitutional rights and liberties of the States and people, or who, for other causes, good or bad, may be obnoxious to the views, or marked by the suspicion of the President, or be thought dangerous to his or their elections, or other interests, public or personal; that the friendless alien has indeed been selected as the safest subject of a first experiment, but the citizen will soon follow; rather, has already followed; for already has a sedition act marked him as its prey: that these and successive acts of the same character, unless arrested at the threshold, necessarily drive these States into revolution and blood, and will furnish new calumnies against republican governments, and new pretexts for those who wish it to be believed that man cannot be governed but by a rod of iron; that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is every where the parent of despotism. Free government is founded in jealousy and not in confidence; it is jealousy and not confidence which prescribes limited constitutions, to bind down those



whom we are obliged to trust with power; that our constitution has accordingly fixed the limits to which, and no further, our confidence may go. And let the honest advocate of confidence read the alien and sedition acts, and say if the constitution has not been wise in fixing limits to the government it created, and whether we should be wise in destroying those limits? Let him say what the government is, if it be not a tyranny, which the men of our choice have conferred on our president, and the president of our choice has assented to and accepted, over the friendly strangers to whom the mild spirit of our country and its laws had pledged hospitality and protection; that the men of our choice have more respected the bare *suspicions* of the president, than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice; in questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the constitution: that this commonwealth does, therefore, call on its co-states for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes hereinbefore specified; plainly declaring whether these acts are, or are not, authorized by the federal compact? And it doubts not that their sense will be so enounced as to prove their attachment unaltered to limited government, whether general or particular; and that the rights and liberties of their co-states will be exposed to no dangers by remaining embarked in a common bottom with their own; that they will concur with this commonwealth in considering the said acts as so palpably against the constitution as to amount to an undisguised declaration that that compact is not meant to be the measure of the powers of the general government; but that it will proceed in the exercise over these states, of all powers whatsoever; that they will view this as seizing the rights of the states, and consolidating them in the hands of the general government, with a power assumed to bind the states (not merely in the cases made federal, [*casus fœderis*]) but in all cases whatsoever, by laws made, not with their consent, but by others against their consent; that this would be to surrender the form of government we have chosen, and to live under one deriving its powers from its own will, and not from our authority; and that the co-states recurring to their natural right, in cases not made federal, will concur in declaring these acts void and of no force, and will each take measures of its own for providing that neither these acts, nor any others of the general government, not plainly and intentionally authorized by the constitution, shall be exercised within their respective territories.

9. *Resolved*, That the said committee be authorised to communicate, by writing or personal conferences, at any times or places whatever, with any person or persons who may be appointed by any one or more of the co-states to correspond or confer with them; and that they lay their proceedings before the next session of assembly.

RICHMOND, March 21, 1832.

I have carefully compared this copy with the MSS. of these resolutions in the handwriting of Thomas Jefferson, and find it a correct and full copy.

TH. JEFFERSON RANDOLPH.

#### MR JEFFERSON'S OPINIONS.

*Extract of a letter from Mr Jefferson, to Major Cartwright, dated*

MONTICELLO, June 5, 1824.

With respect to our state and federal governments, I do not think their relations correctly understood by foreigners. They generally suppose the former *subordinate* to the latter. But *this is not the case*. They are co-ordinate departments of one simple and integral whole. To the *state governments* are reserved *all legislation* and administration, in affairs which *concern their own citizens* only, and to the *federal government* is given whatever concerns foreigners, or the citizens of other states; these functions alone being made

federal. The one is domestic, the other the foreign branch of the same government; neither having control over the other, but within its own department. There are one or two exceptions only to this partition of power. But, you may ask, if the two departments should claim *each the same subject of power, where is the common umpire to decide ultimately between them?* In cases of little importance or urgency, the *prudence of both parties will keep them aloof from the questionable ground:* but if it can neither be avoided nor compromised, a CONVENTION OF THE STATES MUST BE CALLED, to ascribe the doubtful power to that department which they may think best.

Extract of a Letter from THOMAS JEFFERSON, to WILLIAM B. GILES, dated 26 December, 1826.

“*Dear Sir*—I see as you do, with the deepest affliction, the *rapid strides with which the Federal branch of our Government is advancing towards the usurpation of all rights reserved to the States*, and the CONSOLIDATION IN ITSELF OF ALL POWERS FOREIGN AND DOMESTIC, and that too, by the constructions which if legitimate, leave no limits to their power. Take together the decisions of the Federal Court, the doctrines of the President, and the misconstructions of the Constitutional compact acted on by the Legislature of the Federal branch; and it is but too evident that the three ruling branches of that department, are in combination to strip their colleagues, the State authorities, of the powers reserved by them, and to exercise themselves, all functions foreign and domestic. Under the power to REGULATE COMMERCE, to assume, indefinitely, that also over Agriculture and MANUFACTURES; and call it *regulation* too, to take the earnings of one of these branches of industry, and that too, the most depressed, and put them into the pockets of the other, the most flourishing of all. Under the authority to *establish Post Roads*, they claim that of cutting down mountains for the construction of Roads, of digging Canals; and aided by a little sophistry on the words ‘general welfare,’ a right to do, not only the acts (to effect that) which are specifically enumerated or permitted; but what soever they *shall think or pretend* will be for the general welfare. And what is our resource for the preservation of the Constitution? Reason and argument!—You might as well reason and argue with the marble columns encircling them —The Representatives chosen by ourselves?—They are joined in the combination, some from incorrect views of Government, some from corrupt ones, sufficient voting together, to outnumber the sound parts, and with majorities of only 1, 2 or 3, bold enough to go forward in defiance.”

### PROTEST

Prepared by Mr Jefferson for the Legislature of Virginia.—December, 1825.

*The solemn declaration and protest of the Commonwealth of Virginia, on the principles of the Constitution of the United States of America, and on the violations of them.*

We, the General Assembly of Virginia, on behalf, and in the name of the people thereof, do declare as follows:

The States in North America, which confederated to establish their independence on the Government of Great Britain, of which Virginia was one, became, on that acquisition, free and independent States, and as such, authorized to constitute Governments, *each for itself*, in such form as it thought best.

They entered into a *compact* (which is called the Constitution of the United States of America,) by which they agreed to unite in a single Government as to their relations with each other, and with foreign nations, and as to certain other articles *particularly specified*. They retained at the same time, each to itself, the other rights of independent government, comprehending mainly their domestic interests.

For the administration of their Federal branch, they agreed to appoint, in conjunction, a distinct set of functionaries, Legislative, Executive, and Judi-



ciary, in the manner settled in that compact : while to each, severally and of course, remained its original right of appointing, each for itself, a separate set of functionaries. Legislative, Executive, and Judiciary, also, for administering the domestic branch of their respective Governments.

These two sets of officers, each independent of the other, constitute thus a *whole* of government, for each State separately ; the powers ascribed to the one, as specifically made Federal, exercised over the whole, the residuary powers, retained to the other, exercisable exclusively over its particular States, foreign herein, *each to the other*, as they were before the original compact.

To this construction of government and distribution of its power, the Commonwealth of Virginia does religiously and affectionately adhere, opposing with equal fidelity and firmness, the usurpation of either set of functionaries on the rightful powers of the other.

But the Federal branch has assumed in some cases, and claimed in others, a right of enlarging its own powers by constructions, inferences, and indefinite deductions from those directly given, which this Assembly does declare to be usurpations of the powers retained to the independent branches, mere interpolations into the compact, and direct infractions on it.

They claim, for example, and have commenced the exercise of a right to construct roads, open canals, and effect other internal improvements within the territories and jurisdictions exclusively belonging to the several States, which this Assembly does declare has not been given to that branch by the constitutional compact, but remains to each State among its domestic and unalienated powers, exercisable within itself, and by its domestic authorities alone.

This Assembly does further disavow, and declare to be most false and unfounded, the doctrine, that the compact, in authorizing its Federal branch to lay and collect taxes, duties, imposts, and excises ; to pay all debts and provide for the common defence and general welfare of the United States, has given them thereby a power to do whatever *they may think, or pretend*, would promote the general welfare ; which construction would make that, of itself, a complete government, without limitation of powers ; but that the plain sense and obvious meaning was, that they might levy the taxes necessary to provide for the general welfare, *by the various acts of power therein specified* and delegated to them, and *by no others*.

Nor is it admitted, as has been said, that the people of these States, by not investing their Federal branch with all the means of bettering their condition, have denied to themselves any which may effect that purpose, since, in the distribution of these means, they have given to that branch those which belong to its departments, and to the States have reserved, separately, the residue which belong to them separately. And thus, by the organization of the two branches taken together, have completely secured the first object of human association, the full improvement of their condition, and reserved to themselves all the faculties of multiplying their own blessings.

Whilst the General Assembly thus declares the rights retained by the State, rights which they never have yielded, and which the State never will voluntarily yield, they do not mean to raise the banner of disaffection, or of separation from their sister States, co-parties with themselves to this compact. They know and value too highly the blessings of their Union, as to foreign nations and questions arising among themselves, to consider every infraction to be met by actual resistance. They respect too affectionately the opinions of those possessing the same rights, under the same instrument, to make every difference of construction a ground of immediate rupture. They would, indeed, consider such a rupture as among the greatest calamities which could befall them ; but not the greatest. There is yet ONE GREATER, *submission to a Government of unlimited powers*.

*Extract from the Speech of Judge Marshall, in the House of Representatives of the United States, in the case of Jonathan Robbins, in the year 1799. See Bee's reports (South Carolina.) p. p. 266 to 291, for the speech at length.*

"The gentleman from New York had relied on the second section of the third article of the Constitution, which enumerates the cases to which the *JUDICIAL POWER* of the United States extends, as expressly including that now, under consideration. Before he examined that section, it would not be improper to notice a very material misstatement of it made in the resolutions offered by the gentleman from New York. By the constitution, the judicial power of the United States, is extended to all *CASES in law and equity* arising under the Constitution, laws and treaties of the *United States*; but the resolutions declare the judicial power to extend to *ALL QUESTIONS* arising under the Constitution, treaties and laws of the *United States*. The difference between the Constitution and the resolutions was material and apparent. A case in law or equity was a term well understood, and of limited significance. It was a controversy between *parties*, which had taken a shape for judicial decision. If the judicial power extended to every *question* under the constitution, it would involve almost every subject proper for legislative discussion and decision; if to every *question* under the laws and treaties of the *United States*, it would involve almost every subject on which the executive could act. The division of power which the gentleman had stated could exist no longer, and the other departments would be *swallowed up by the judiciary*. But it was apparent that the resolutions had essentially misrepresented the Constitution. He did not charge the gentleman from *New York* with intentional misrepresentation; he would not attribute to him such an artifice in any case, much less in a case where detection was so easy and so certain. Yet this substantial departure from the Constitution, in resolutions effecting substantially to recite it, was not less worthy of remark for being unintentional. It manifested the course of reasoning by which the gentleman had himself been misled, and his judgment betrayed into the opinions those resolutions expressed.

By extending the judicial power to *all cases in law and equity*, the constitution had never been understood to confer on the department *ANY POLITICAL POWER WHATEVER*. To come within this description, a question must assume a *legal form* for forensic litigation and judicial decision. There must be *parties to come into court*, who can be *reached by its process* and *bound by its power*; whose rights admit of ultimate decision by a tribunal to which they are bound to submit.

A case in law or equity proper judicial decision may arise under a treaty, where the *rights of individuals* acquired or secured by a treaty are to be asserted or defended in court. As under the fourth or sixth article of the treaty of peace, with *Great Britain*, or under those articles of our late treaties with *France*, *Russia*, and other nations, which secure to the subjects of those nations their property within the *United States*; or, as would be an article which, instead of stipulating to deliver up an offender, should stipulate his punishment, provided the case was punishable by the laws and in the courts of the *United States*. But the judicial power cannot extend to *political compacts*, as the establishment of the boundary line between the American and British Dominions; the case of the late guarantee in our treaty with *France*; or the case of the delivery of a murderer under the twenty-seventh article of our present treaty with Britain."

---

#### STATE INTERPOSITION.

*Extract from the Protest of South Carolina, dated Dec. 19, 1828.*

"Under the operation of this supreme controlling power, to whose interposition no one can object, all controversy between the States and General Gov-



Government would be thus adjusted, and the constitution would gradually acquire, by its constant interposition in important cases, all the perfection of which the work of men is susceptible. It is thus that the creative will become the preserving power; and we may rest assured, that it is no less true in politics than in divinity, that the power which creates can alone preserve, and that preservation is perpetual creation." Such will be the operation of the veto of the State.

On the exercise of this power, the Hon. J. C. Calhoun, Vice President, in his exposé, makes these reflections:

"I do not deny that a power of so high a nature, may be abused by a State; but when I reflect, that the States unanimously called the general Government into existence with all of its powers, which they freely surrendered on their part, under the conviction that their common peace, safety, and prosperity required it, that they are bound together by a common origin, and the recollection of common suffering and a common triumph in the great and splendid achievement of their independence; and that the strongest feelings of our nature, and among them the love of national power and distinction, are on the side of the Union; it does seem to me, that the fear which would strip the States of their sovereignty, and degrade them, in fact, to mere dependent corporations, lest they should abuse a right indispensable to the peaceable protection of those interests, which they reserved under their own peculiar guardianship when they created the General Government, is unnatural and unreasonable. If those who voluntarily created the system cannot be trusted to preserve it, what power can?"

#### NULLIFICATION, ORIGIN OF THE TERM.

*Kentucky Resolutions of 1799.*—"That the principle and construction contended for by sundry of the State Legislatures, that the General Government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism, since the discretion of those who administer the Government, and not the constitution, would be the measure of their powers.

"That the several States who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its intraction, and that a NULLIFICATION by those sovereignties of all unauthorised acts done under the color of that instrument, is the rightful remedy."

#### OPINION OF CHIEF JUSTICE TILGHMAN OF PENNSYLVANIA, IN THE MEMORABLE CASE OF OLMSTEAD.

The Chief Justice thus expresses himself—

"The counsel of Olmstead have brought forward a preliminary question, whether I have a right to discharge the prisoner, even if I should be clearly of opinion that the District Court had no jurisdiction. I am aware of the magnitude of this question, and have given it the consideration it deserves. My opinion is, with great deference to those who may entertain different sentiments, that in the case supposed I should have a right, and it would be my duty to discharge the prisoner. This right flows from the nature of our Federal Constitution, which leaves to the several States absolute supremacy in all cases in which it is not yielded to the United States. This sufficiently appears from the general scope and spirit of the instrument. The United States have no power, legislative or judicial except what is derived from the Constitution. When these powers are clearly exceeded, the independence of the States, and the peace of the Union demand that the State Courts should, in cases brought properly before them, give redress. There is no law which forbids it; their oath of office exacts it—and if they do not, what course is to be taken? We must be reduced to the miserable extremity of opposing force to force, and arraying citizen against citizen, for it is vain to expect that the States will submit to manifest and flagrant usurpations of power by the United States, if (which

God forbid) they ever attempt them. If Congress should pass a *Bill of Attainder*, or lay a tax or duty on articles exported from any State, (from both which powers they are expressly excluded) such laws would be null and void, and all persons who acted under them, would be subject to actions in the *State Courts*. If a court of the United States should enter a judgment against a State which refused to appear in an action brought against it by a citizen of another state, or by a foreign state, such judgment would be void, and all persons who act under it would be trespassers. These cases appear so plain that they will hardly be disputed. It is only in considering DOUBTFUL cases that our minds feel a difficulty in deciding. But, if in the plainest case which can be considered, the state courts may declare a judgment, [of the U. S. Courts] to be void, the PRINCIPLE is established."

#### AN UNCONSTITUTIONAL LAW IS NULL AND VOID.

In the 78th number of the "*Federalist*," it is laid down, that—"there is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the constitution, can be valid. To deny this, would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men, acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid."

#### CHIEF JUSTICE MARSHALL,

Says (in *Marberry and Madison*) "That the Constitution is the fundamental and paramount law of the nation, and ALL ACTS repugnant to it are void."

So said Thomas Jefferson—and so have said every court before whom the question has been brought in the United States.

But who are to judge? Answer—the "several STATES"

#### THE SUPREME COURT, NOT THE FINAL ARBITERS.

Madison's Report, speaking in reference to this subject, says—"It has been objected," (to the right of a state to interpose for the protection of her reserved rights) "that the judicial authority is to be regarded as the sole expositor of the constitution; on this objection it might be observed, first, that there may be instances of usurped powers, which the forms of the constitution could never draw within the controul of the judicial department; secondly, that if the decisions of the judiciary be raised above the sovereign parties to the constitution, the decisions of the other departments, not carried by the forms of the constitution before the Judiciary, must be equally authoritative and final with the decision of that department. But the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases, in which all of the forms of the constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it. The resolution supposes that dangerous powers, not delegated, may not only be usurped and exercised by other departments, but that the judicial department may also exercise, or sanction, dangerous powers beyond the grant of the constitution, and consequently that the ultimate right of the parties to the constitution to judge whether the compact has been dangerously violated, must extend to violations by one delegated authority, as well as by another—by the judiciary, as well as by the executive or legislative." So

#### MR JEFFERSON,

in answer to the author of a book printed in Boston in 1821, says—"You seem, in pages 84 and 148, to consider the judges as the *ultimate* arbiters of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the *despotism of an Oligarchy*. Our judges are as honest as other men, and not more so. They have with others the same passions for *power*, and the privileges of their corps. Their maxim is, *boni iudices, est ampliare jurisdictionem*, and their power is the more dangerous, as



they are in office for life, and not responsible, as the other functionaries are to the elective control."

So in his letter to judge Johnson, in answer to the argument—"That there must be an arbiter somewhere"—Mr Jefferson says "true; but this does that prove it must be in either party. The ultimate arbiter is the people assembled by their deputies in convention. Let them decide to which they mean to give an authority claimed by two of their agencies."

And again:—"With respect to our state and federal governments (says Thomas Jefferson) I do not think their relations are correctly understood by foreigners. They suppose the former subordinate to the latter. This is not the case. They are co-ordinate departments of one simple and integral whole. But you may ask of the two departments should claim each the same subject of power, *where is the umpire to decide between them?* In cases of little urgency or importance, the prudence of both parties will keep them aloof from the questionable ground; but if it can neither be avoided nor compromised, a convention of the states must be called to ascribe the doubtful power to that department which they *may think best.*"

#### CHIEF JUSTICE MCKEAN'S OPINION.

Decision of the Supreme Court of Pennsylvania in December, 1798, in the case of "The Commonwealth *vs.* Cobbett," *unanimously* refusing to permit the Defendant, who was an alien, to remove his case into the Federal Court, notwithstanding the positive provisions of the 12th section of the United States Judicial Act.

The unanimous opinion of the Court was delivered by Chief Justice McKean, and contains these words—(see 3 Dallas. 473)—"The divisions of power between the National, or Federal, and State Governments, (all derived from the same source, the Authority of the People,) must be collected from the *Constitution* of the United States. Before it was adopted, the several States had *absolute and unlimited Sovereignty* within their respective boundaries; all the powers, Legislative, Executive, and Judicial, excepting those granted to Congress under the old Constitution. They now enjoy them *all, excepting* such as are granted to the Government of the United States by the present Instrument, and the adopted Amendments, which are for *particular purposes only*. The Government of the United States forms a part of the Government of each State—its *jurisdiction extends* to the providing for the *common defence* against exterior injuries and violence, the regulation of Commerce, and other matters *specially enumerated* in the Constitution.—*All other powers remain* in the individual States, comprehending the *interior* and other concerns. These combined form one complete Government. Should there be any defect in this form of Government—or any *collision* occur—it cannot be remedied by the sole Act of the Congress, or of a State. The people must be resorted to for enlargement or modification. If a State should differ with the United States about the construction of them, there is *no common umpire but the people*, who should make amendments in the constitutional way, or suffer from the defect [in the Constitution.] In such a case, the Constitution of the United States is *Federal*. It is a LEAGUE OR TREATY made by the INDIVIDUAL STATES, as *one party*, and ALL THE STATES, as *another party*. When *two nations* differ about the meaning of any clause, sentence, or word in a *Treaty*, neither has an *exclusive* right to decide. But if it *cannot* be thus accomplished, each has a right to *retain its own interpretation*, until a *reference* be had to the mediation of other Nations, an Arbitration, or the fate of war. There is no provision in the Constitution, that in such a case the *Judges of the Supreme Court* of the United States shall *control* and be *conclusive*—neither can the Congress by a law confer that power. There appears to be a defect in this matter. It is a *casus omissus*, which ought in some way to be remedied. Perhaps the *Vice President and Senate of the United States*—or *Commissioners appointed, say one by each State*, would be a more proper Tribunal than the Supreme Court. Be that as it may—I rather think the remedy must be found in an amendment of the Constitution."

The Court then proceeded to over-rule the motion on the ground that the Sovereign State of Pennsylvania could not, on account of its dignity, be carried before the Federal Court.

This case added another laurel wreath to the unfading chaplet of the Republicanism of '98—that glorious era of the vindication of the insulted Constitution and the restoration of the outraged sovereignty of the States.

The above case is thus cited and remarked upon by the distinguished Judge Roane, of Virginia, in the case of *Hunter & Martin*.—(Dallas, 52.)

“In the case of the *Commonwealth vs. Cobbet*, the Supreme Court of the State of Pennsylvania, solemnly and unanimously refused to permit the defendant, who was an alien, to remove a cause in which he was sued by the State, in its Supreme Court, into the Circuit Court of the United States, notwithstanding the comprehensiveness of the words of the twelfth section, of the judicial act, upon this subject. The Court, after declaring, in the most explicit terms, that all powers not granted to the Government of the United States, remained with the several States; that the Federal Government was a league, or treaty, made by the individual States, as one party, and all the States, as another; that when two nations differ, about the construction of a league, or treaty existing between them, neither has the exclusive right to decide it; and that, if one of the States should differ with the United States, as to the extent of the grant made to them, there is no common umpire between them, but the people, by an amendment of the Constitution; went on to declare its own opinion on the subject, and overruled the motion, on the ground that the sovereign State of Pennsylvania could not, on account of its dignity, be carried before that Court.

“One of the appellee’s counsel was pleased to call this decision a *dictum* of Chief Justice McKean’s. I must be excused for saying it is no *dictum*, nor is it the sole and individual opinion of that respectable Judge. It is the solemn and unanimous decision, and resolution, of the Supreme Court, of one of the most respectable States of the Union. It contains no principle which every friend to the federative system of Government will not readily subscribe to: it exhibits no sentiment alarming to any, but the friends of CONSOLIDATION.”

#### MAJORITY AND MINORITY.

*Extracts from an article in the Southern review on the Georgia controversy.*

“A law has recently been passed imposing duties on imports &c. In judging of the validity of this law, the question is whether a power to regulate commerce, sanctions the passing of an act, imposing duties to exclude foreign imports for the encouragement of American manufactures? or in other words a law exclusively for the regulation of manufactures, is a law, for the regulation of commerce. The statement of this question would seem to involve the answer. Can a power intended for one object authorized by the constitution, be applied to another which is not authorized? If it can, the constitution is unlimited in its action, and our citizens LIVE UNDER DESPOTISM, not the more grateful for having been created by themselves.”

Again:—“That the decision of a majority of Congress, is to exclude the interference both of the states and of the people is a position so glaringly inconsistent with every notion of a republican government, that we shall offer a very few remarks upon it. In the ordinary and regular administration of a affairs, the assertion of the right of a majority to bind the people is a mere truism; but a majority as well as a minority may be a faction, and where the executive or the legislature, is accused of oppression or corruption, to contend that the will of a prevailing majority should alone be evidence of the legality of their proceeding, would render hopeless all possibility of relief. That a majority might pass laws perpetrating its own power and subverting every principle of freedom and of the constitution. We shall not formally endeavor to confute a proposition deduced from the slavish doctrines of *passive obedience* and *non-resistance*, but we cannot refrain from expressing our surprise that it



should have found *open* supporters in the United States. Equally destructive of the stability of our institutions is the contrary opinion, that a *dissolution of the Union* ought to be the necessary consequence of every usurpation of power by the Federal Government."

And again:—"In the execution of this law [the Tariff] no one can exceed us. We think that a tax which excludes *importations* from the natural and accustomed purchases of the staples of the southern states reduces *the exchangeable value of their exports*, and it is as substantially a tax upon them, as if they were directly subjected to it: that a *tax upon importations* not laid for revenue, &c. is PARTIAL, OPPRESSIVE, and UNCONSTITUTIONAL."

OPINIONS of the Venerable GEN. SUMPTER, of South Carolina, the only General Officer of the Revolution now alive, familiarly known during that war, as the GAME COCK OF THE SOUTH.

*Extract from a letter to his grandson, dated 23d Aug. 1831.* "In this country Republicanism, in its true sense, was intended to mean and did mean, that its possessors had both the right and will to resist effectually unauthorized power, which in every shape means usurpation.

"If any of the present generation, have forgotten this wholesome truth, let them, before they attempt to seduce or terrify me, read carefully the Declaration of Independence; the Debates on the Ratification of the Federal Constitution; the Constitution itself and its amendment, (without which it could not have existed five years,) the Virginia and Kentucky Resolutions, adopted in the reign of terror; the proceedings and protest of their own and other Legislatures on the fraudulent Tariff of 1828; and last, because latest, the exposition just offered them by the second officer of the General Government, of the principles, the policy, the powers, and the limitations ascribed in the Constitution to the Federal authority, as distinguished from the residuary rights and powers retained by the State authorities of the same government, when they formed the Constitution, out of the old Confederacy—after reading such lessons as these, no Carolinian will attempt to seduce or press any one into ranks of consolidation and submission.

*Extract of another letter, dated 22d Oct. 1830.*—"I hope there is still a democracy in every state—a democracy characterised by its just conception of liberty, and by its philanthropy—it will hearken to the call of the people of South Carolina, and join in protesting against the unlawful and unjust acts of government. Some remedy must be resorted to, or else from the position our State has assumed, her citizens will become objects of contempt and derision, and never will she resume that rank and weight in the Union, for the maintenance of which even her present political existence should be sacrificed.

"Unfortunately our people are not united. Many, though they admit the unconstitutionality of certain acts of Congress, yet because they do not feel their operation, are determined to wait until they do—but when *these* feel, it will then be too late.—It is a hard matter to enslave a free people, but such a people once enslaved; will hardly regain their liberty.

"It is not my intention either to exaggerate the misfortunes of our State, or praise its resignation in supporting them. This resignation would be *dire necessity*, if the evil was inevitable; but if the evil can be avoided, it will be alike destitute of courage and dignity."

*Dr. Franklin on Free Trade, and Dr. Channing on the Union.*

DR. FRANKLIN ON FREE TRADE.

"Perhaps, in general, it would be better if government meddled no further with trade, than to protect it, and let it take its course.—Most of the statutes or acts, edicts, arrears, and placards of Parliaments, Princes, and States, for regulating or restraining of trade, have, we think, been either political blunders, or jobs obtained by artful men for private advantage, under pretence of public good. When Colbert assembled some wise old merchants of France,

and desired their advice and opinion how he could best serve and promote commerce; their answer, after consultation, was in three words only. "Laissez nous faire —Let us alone." It is said by a very solid writer of the same nation, that he is well advanced in the science of politics, who knows the full force of that maxim, "Pas trop gouverner.—Not govern too much," which perhaps would be of more use when applied to trade, than in any other public concern. It were therefore to be wished that commerce were as free between all nations of the world, as it is between the several counties of England; so would all by mutual communication obtain more enjoyments. Those counties do not ruin each other by trade, neither would the nations. No nation was ever ruined by trade even seemingly the most disadvantageous. Wherever desirable superfluities are imported, industry is excited, and thereby plenty is produced."

EXTRACTS FROM DR. CHANNING ON THE UNION.

"We should rejoice if by some great improvement in finance, every custom-house could be shut from Maine to Louisiana. The interest of human nature requires that every fetter should be broken from the intercourse of nations, that the most distant countries should exchange all their products, whether of manual or intellectual labour, as freely as members of the same community. An unrestricted commerce we regard as the most important means of diffusing through the world knowledge, arts, comforts, civilization, religion and liberty: and to this great cause we would have our country devoted. We will add that we attach no importance to what is deemed the chief benefit of tariffs, that they save the necessity of direct taxation, and draw from the people a large revenue without their knowledge. In the first place we say that a free people ought to know what they have to pay for freedom, and to pay it joyfully; and that they should as truly scorn to be cheated into the support of their government, as into the support of their children. In the next place a large revenue is no blessing. An overflowing treasury will always be corrupting to the governors and the governed. A revenue rigorously proportioned to the wants of a people, is as much as can be trusted safely to men in power. The only valid argument against substituting direct for indirect taxation, is the difficulty of ascertaining with precision the property of the citizen. Happy would it be for us could tariffs be done away!—for with them would be abolished fruitful causes of national jealousies, of war, of perjury, of wranglings, of innumerable frauds and crimes, and of harrassing restraints on that commerce which should be as free as the wind."—[Published in the *Christian Examiner and General Review for May, 1829.*]

STATE RIGHTS.—*Resolutions of certain States in relation thereto.*

PENNSYLVANIA LEGISLATURE.

HOUSE OF REPRESENTATIVES, March 1, 1809.

Report on the Governor's Message relative to the Mandamus of the Supreme Court of the United States, in the case of Gideon Olmstead.

The committee to whom was referred the message of the Governor of the 27th February—*Report,*

That the subject referred to them, has not failed to engage their most serious reflection. They have viewed it in every point of light in which it could be considered. It is by no means a matter of indifference. In whatever way the legislature may decide, it will be in the highest degree important. We may purchase peace by a surrender of right, or exhibit to the present times, and to late posterity, an awful lesson in the conflicts to preserve it. It becomes a sacred duty we owe to our common country, to discard pusillanimity on the one hand, and rashness on the other. In either case we shall furnish materials for history; and future times must judge of our wisdom, or our weakness. Ancient history furnishes no parallel to the Constitution of this United Republic. And should this great experiment fail, vain may be every effort to establish rational liberty. The spirit of the times gives birth to jeal-



*any of power; it is interwoven in our system, and is, perhaps, essential to perfect freedom and the rights of mankind. But this jealousy urged to the extreme, may eventually destroy even liberty itself. As connected with the Federal system, the State Governments, with their inherent rights, must, at every hazard, be preserved entire; otherwise the General Government may assume a character, never contemplated by its framers, which may change its whole nature."*

The Committee then proceed to give a detailed and minute account of all the facts and circumstances from the commencement of Olmstead's case, until they come to the resolution of Congress sustaining the jurisdiction of the United States Admiralty Court of Appeals, upon which they make the following observations:

"But it had no effect upon Pennsylvania, tenacious of her own rights resting upon her own laws, and understanding, *as well* as any other State, the *extent of the power of Congress*, and the authority she *had consented* to vest in that body. Committees were appointed to confer with a Committee of Congress, but every conference was ineffectual: and on the 31st January, 1780, by an unanimous voice of the General Assembly, the following decisive instructions were transmitted to the Pennsylvania delegation in Congress:

"It is the proper business, and the strict right of juries to establish facts; yet the Court of Appeals took upon them to violate this essential part of jury trial and to reduce in effect this mode of jurisprudence to the course of the civil law; *a proceeding to which the State of Pennsylvania cannot yield."*

"Although the Committee, in common with every member of the House reverence the Constitution of the United States, and its *lawful authorities*, yet there is a respect due to the solemn and public acts, and to the honor and dignity of our own State, and the unvarying assertion of her right for a period of thirty years. Your Committee therefore offer the following resolutions:

"*Resolved by the Senate and House of Representatives of the Commonwealth of Pennsylvania, &c.* That as a member of the Federal Union, the Legislature of Pennsylvania acknowledges the supremacy, and will cheerfully submit to the authority, of the General Government, *as far as that authority is delegated by the Constitution of the United States.* But, whilst they yield to this authority, when exercised *WITHIN CONSTITUTIONAL LIMITS*, they trust they will not be considered as acting hostile to the General Government, when, *AS GUARDIANS OF STATE RIGHTS*, they cannot *PERMIT AN INFRINGEMENT OF THOSE RIGHTS*, by an unconstitutional exercise of power in the United States Courts.

"*Resolved*, That in a Government like that of the United States, where there are powers granted to the General Government, and rights reserved to the States, it is impossible, from the imperfection of language, so to define the limits of each, that difficulties should not sometimes arise from a collision of powers; and it is to be lamented that *no provision is made* in the Constitution, for determining disputes between the General and State Governments, by an impartial tribunal, when such cases occur.

"*Resolved*. That from the construction the United States Courts give to their powers, the harmony of the States, if they resist encroachments on their rights, will frequently be interrupted: and if, to prevent this evil, they should, on all occasions, *yield to stretches of power*, the reserved rights of the States will depend on the arbitrary power of the Courts.

"*Resolved*, That, should the independence of the States, as secured by the Constitution, be destroyed, the liberties of the people, in so extensive a country, cannot long survive. To suffer the United States Courts to decide on State rights, will, from a bias in favor of power, necessarily destroy the Federal part of our Government; and whenever the Government of the United States becomes consolidated, we may learn, from the history of nations, what will be the event."

**PENNSYLVANIA.**—Resolutions adopted by Legislature in 1811, on the Bank of the U. States.

The people of the United States by the adoption of the Federal Constitution, established a General Government for special purposes, reserving to themselves, respectively, the rights and authorities not delegated in that instrument. To the compact thereby created, each state acceded, in its character as a state, and is a party; the United States forming, as to it, the other party. The act of Union, thus entered into, being, to all intents and purposes, a treaty between sovereign States. The General Government, by this treaty, was not constituted the exclusive or final judge of the powers it was to exercise: for if it were so to judge, then its judgment, and not the constitution, would be the measure of its authority.

Should the General Government, in any of its departments, violate the provisions of the Constitution, it rests with the States, and with the people, to apply suitable remedies.

#### VIRGINIA.

Report and Resolutions, adopted February 29, in Reply to Resolutions of Georgia and South Carolina in 1828.

In conformity with arrangements previously understood, the distinct and independent States of America assembled in General Convention at Philadelphia, and in their *sovereign*, corporate characters, proceeded to consider the nature of the Compact, which it might be deemed wise to establish among themselves. All the proceedings which were then had, were despatched in their characters of *sovereign* States, and a Government was instituted, *not* sustained by the sanction of a *majority of the people of America*, but by the sanctions of the people of the *several States*.—The plan of Government then established, was conformable to suggestions heretofore made.—Each of the *sovereignities* then assembled, determined to *cede* to the Federal Government certain portions of its sovereignty, *reserving the residue unimpaired*. In the cessions which were made, the Government was enabled to concentrate the whole strength of the Union, for the assertion and vindication of our *national rights*. It was invested with sufficient power to tranquilize disturbances among the States; together with a general jurisdiction, over such matters of *general concern*, as involved the *common interests of the States*, but which could not be wisely arranged, by the rival, partial, and conflicting legislation of the *particular States*. The jurisdiction over all other subjects was expressly reserved to the *States respectively*. All subjects of a *local nature*, the internal police of the States, the jurisdiction over the soil, the definition and punishment of crime, the regulation of labor, and all subjects which could be advantageously disposed, by the authority of a particular State, were reserved to the jurisdiction of the State Governments. The wisdom of this regulation will not be questioned: for, it surely must be sufficiently obvious, that to subject our local or domestic affairs to any other authority than our own Legislature, would be to expose to certain destruction the happiness and prosperity of the people of Virginia. This principle was accordingly established.—That all subjects of a general nature should be ceded to the Federal Government, whilst those which were local in their character, were reserved for the jurisdiction of the States respectively.

This distribution of political power having been established by the Constitution, the happiness and prosperity of the American people demand, that it should be *preserved*. The theory of Government as established in America, contemplates the Federal and State Governments as mutual checks on one another, *constraining* the various authorities to revolve within their proper and constitutional spheres. Each Government is invested with supreme authority, in the exercise of its legislative functions, whilst the authority of either is *wholly void*, when exerted over a subject withheld from its jurisdiction. Should either depository of political power, unhappily be disposed to disregard the Constitution, and destroy the proportions of our beautiful theory, it devolves upon the other to *interpose*, as well from a regard to its own safety, as for the perpetual preservation of our political institutions. If there be a characteristic of the Federative system, peculiarly entitled to our admiration, it is the security which is found for individual liberty in the separate energies of distinct Governments, uniting and co-operating for the public good; but separating and *conflicting*, when the object is *evils*.

"The reflections in which your committee have indulged constrain them to express their unfeigned regret that the Government of the United States, by extending its influence to Domestic Manufactures, has drawn within its authority a subject over which it has *no control*, according to the terms of the Federal Compact; and that this influence has been exerted after a manner, like dangerous to the *sovereignty* of the States, and injurious to the rights of all other classes of American citizens.

Acting under the influence of these reflections, your committee have contemplated with deepest interest the situation of the General Assembly, and the duties which devolve upon that body. They cannot suppress their solemn conviction, that the principles of the Constitution have been disregarded, and the just proportions of our political system disturbed and violated by the General Government. The inviolable preservation of our political institutions is entrusted to the General Assembly of Virginia, *in common with the Legislatures of the several States*; and the sacred duty devolves upon them, of preserving these institutions unimpaired. Yet, an anxious care for the harmony of the States, and an earnest solicitude for the tranquility of the Union, have determined your committee to recommend to the General Assembly, to make *another solemn appeal* to those with whom we unhappily differ; and that the feelings of Virginia may be again distinctly announced, they recommend the adoption of the following Resolutions:

1. *Resolved*, as the opinion of this Committee, That the Constitution of the United States, being a Federative Compact between sovereign States, in construing which *no common arbiter* is known each State has the right to construe the Compact for itself.

2. *Resolved*, That in giving such construction, in the opinion of this Committee, each State should be guided, as Virginia has ever been, by a sense of forbearance and respect for the opinion of the other States, and by community of attachment to the Union, *so far as the same may be*



consistent with self-preservation, and a determined purpose to preserve the purity of our Republican Institutions.

3. *Resolved*, That this General Assembly of Virginia, actuated by the desire of guarding the Constitution from all violation, anxious to preserve and perpetuate the Union, and to execute with fidelity the trust reposed in it by the people, as *one of the high contracting parties*, feels itself bound to declare, and it hereby most solemnly declares, its deliberate conviction, that the Acts of Congress, usually denominated the Tariff Laws, passed avowedly for the protection of Domestic Manufactures, are not authorized by the plain construction, true intent and meaning of the Constitution.

GEORGIA.—When the Resolutions of South Carolina, of Dec. 1827, were transmitted to the other States, the Legislature of Georgia responded as follows:

"The States, in forming the Constitution, treated with each other as sovereign and independent governments, expressly acknowledging their rights of sovereignty, and inasmuch as they divested themselves of those rights only which were expressly delegated, it follows as a legitimate consequence, that they are still sovereign and independent as to all the powers not granted.

The States *respectively*, therefore, have, in the opinion of your Committee, the unquestionable right, in case of any infraction of the general compact, or want of good faith in the performance of its obligations, to complain, remonstrate, and even to *refuse obedience to any measure of the General Government manifestly against, and in violation of the Constitution*; otherwise, the Constitution might be violated with impunity and without redress, as often as the majority might think proper to transcend their powers, and the party injured bound to yield a submissive obedience to the measure, however unconstitutional. This would tend to annihilate all sovereignty and independence of the States, and to consolidate *all power* in the General Government, which never was designed nor intended by the framers of the Constitution.

*Resolved*, That this Legislature *concur* with the Legislature of South Carolina, in the Resolutions adopted at their December session in 1827, in relation to the powers of the General Government and *State Rights*."

#### SOUTH CAROLINA.

We come now to the instances of the recognition of this Sovereign Right in South Carolina. And in considering these, we might, perhaps, with propriety, commence with the proceedings of this State, and its officers, in regard to the acts of 1820, '22, '23, &c. for the "prohibition of free negroes and persons of color from entering into this State,"—which Acts the U. States Judge, Johnson, in the case of Elkinsen, viewed as violations of the United States Constitution and Treaties; as did also the Attorney General of the United States, in the opinion which was given by him in May, 1824, and which was remitted by the Federal Secretary of State, to the then Governor, with a desire from the President, that the obnoxious law should be repealed—to which request the Governor (Wilson) thus responded, in his Message to the Legislature:—

"A firm determination to *RESIST at the threshold, every invasion of our domestic tranquillity, and to preserve our SOVEREIGNTY and independence as a State*, is earnestly recommended. And if an appeal to the first principles of the right of self-government be disregarded, and reason be successfully combatted by sophistry and error, there would be more glory in forming a rampart with our bodies, on the confines of our territory, than to be the victims of successful rebellion, or the slaves of a GREAT CONSOLIDATED GOVERNMENT."

And the Senate of the State also responded as to these internal regulations of her domestic concerns, in the following memorable words:

"This duty is paramount to *all Laws, all Treaties, all Constitutions*. It arises from the supreme and permanent law of nature—the law of self-preservation—and will *never*, by this State, be *renounced, compromised, controlled, or participated* with any power whatever.

But although these State proceedings fully affirmed this sovereign right; yet we would prefer the selection of more distinct and marked examples—and for this purpose (passing over the Resolutions of Judge Smith, in 1825, declaring the Tariff and Internal Improvement Systems "*unconstitutional*,") we come

1st. To the Report of Dr. Ramsay's Committee, adopted in 1827, wherein are contained the following expressions:

"But when Congress assumes to itself a power unknown to the Constitution, and thus encroaches upon what is reserved to the States, here is an interference which goes to the destruction of the compact itself, and of the *parties to that compact*. These parties, being the people of *each different State*, it not only is their *right*, but it becomes an high DUTY of their local Legislatures to *interfere*."

Again—"Each State having entered into the compact as a *sovereign body*, and not in conjunction with any other State, must *judge for itself* whether the compact has been broken or not."

Again—"In stepping across the *boundaries* of power presented by the Constitution, there are *no degrees in the guilt* of that Government which is the *trespasser*, whether the trespass be committed by the State or the *Federal authorities*. It is the *intention* which accompanies the act that *constitutes the crime*—and this intention is as much embodied into the guilt of usurpation, if *one dollar* be taken out of the pockets of our citizens to *encourage a monopoly*, as if Congress, by one "*fell swoop*," were to prostrate *all* the powers of the State Legislatures."

Again—"But in the opinion of your Committee, it is *all important*, that whatever is to be done by South Carolina, ought to be so done as to impress upon the minds of the Congress of the United States, that she does not at this conjuncture, *approach* the National Legislature as a *suppliant* or a *memorialist*, but as a SOVEREIGN and an EQUAL."

2d. By the Report, Resolutions, and solemn Protest of December, 1828, (the latter two of which are understood to have been drawn up by Mr. Hugh S. Legare.) The protest contains these words—

"But feeling it to be their *bounden duty* to expose and *RESIST* all encroachments upon the true spirit of the Constitution, lest an apparent acquiescence in the system of protecting duties should be drawn into precedent, do, in the name of the Commonwealth of South Carolina, claim to enter upon the Journals of the Senate, their *Protest* against it, as unconstitutional, oppressive, and unjust."

The Resolutions contain the following expressions:

"This Legislature is restrained from the *ASSERTION* of the *SOVEREIGN RIGHTS* of the State, by the hope that the magnanimity and justice of the good people of the Union will effect the abandonment of a system *partial* in its nature, *unjust* in its operation, and *not within the powers delegated to Congress*."

"Resolved, That the *MEASURES* to be pursued consequent on the perseverance in this system, are purely questions of *EXPEDIENCY* and *not of allegiance*."

And the Report of the Senate (adopted 36 to 6) contains these expressions—

"The several States, South Carolina among the rest, have also their own distinct, reserved, undelegated Rights, which it is equally their *bounden duty* to watch over and protect from all *encroachment*—and this duty the State of South Carolina will not neglect—but on all occasions, if need be, will faithfully to the *utmost* and *at all hazards* perform it."

Again—"This American System has been gradually *imposed* upon the Union by means and *measures unjust* and *unauthorized*. It admits of no defence on constitutional principles. The powers claimed and connected with it, are no where to be found in that Constitution. It erects the manufacturing States into a favored Aristocracy. It degrades and depresses the character, the industry and the prosperity of every *Agricultural State*. It imposes burthens for which the South receives no equivalent. It renders us in fact, tributaries and laborers for the benefit of the manufacturing States."

"Against this state of things South Carolina has *repeatedly remonstrated in vain*—she has been *condemned* in her *Sovereign capacity*—her Rights have been *trampled upon*—her Remonstrances lie *neglected* on the tables of Congress—her oppressions have been *almost yearly increased*—and no system of Redress has been held out to her hopes or her *entreaties*."

It is impossible that this state of things should be long endured without *decisive efforts at redress*."

"Resolved, That the Acts of Congress for the protection of Domestic Manufactures are *unconstitutional* and should be *RESISTED*—and the other States are invited to *co-operate* with South Carolina in the *measure of resistance* to the same."

3d. By the Resolutions of the Federal Committee of 1830—which are in the following words:

"Resolved, That the Legislature of the State of South Carolina doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States and the Constitution of this State against every aggression, whether foreign or domestic, and that they will support the Government of the United States in all measures warranted by the former."—*Madison*.

"Resolved, That this Legislature doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; and in case of a deliberate, palpable and dangerous exercise of other powers not granted by the said compact, the States, who are parties thereto, have the right, and are in duty bound to *interpose for arresting* the progress of the evil, and for *maintaining within their respective limits*, the authorities, rights and liberties appertaining to them."—*Madison*.

"Resolved, That the several States, comprising the United States of America, are not united on the principle of unlimited submission to their general government; but by compact, under the style and title of a Constitution of the United States, and of amendments thereto, they constituted a government for special purposes; delegated to that government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government; and that whenever the general government assumes undelegated powers, its acts are *unauthoritative, void and of no force*. That to this compact each State acceded as a *State* and is an *integral party*. That the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact between parties having no common judge, *each party* has an equal right to judge for itself, as well of infractions as of the mode and measures of redress."—*Jefferson*.

"Resolved, That the several Acts of the Congress of the United States imposing duties on imports for the protection of domestic manufactures, have been, and are, highly dangerous and oppressive violations of the Constitutional Compact, and that whenever the States which are suffering under the oppression shall lose all reasonable hope of redress from the wisdom and justice of the Federal Government, it will be their *right and duty to interpose* in their *SOVEREIGN CAPACITY*, for the purpose of *arresting the progress* of the evil occasioned by the said unconstitutional Acts."

#### ALABAMA.

Resolution adopted by the Alabama Legislature, 1823.

"Let it not again be said that because the South-west and South send no agents to beset the members of Congress, and have forborne to petition and remonstrate in every village, or to call counter conventions, that they are so recreant to duty as to acquiesce in the proposed oppression, [the Tariff.] On the contrary, let it be distinctly understood that Alabama, in common with the Southern and South-western States, regards the *POWER ASSUMED BY THE GENERAL GOVERNMENT* to control her *internal concerns*, by *protecting duties*, beyond the fair demand for *revenue* as a *PALPABLE USURPATION OF POWERS GIVEN BY THE CONSTITUTION*."



## NORTH CAROLINA.

Memorial against the Tariff, adopted by the Legislature, and presented to Congress, Jan. 1823.

"It is conceded that Congress have the express power to lay imposts, but it is maintained that that power was given for the purpose of Revenue—and *Revenue alone*, and that EVERY OTHER USE OF THE POWER IS USURPATION ON THE PART OF CONGRESS."

## MISSISSIPPI.—Resolutions adopted, February, 1830.

"Resolved, That the State of Mississippi CONCUR WITH THE STATES OF GEORGIA, SOUTH CAROLINA, AND VIRGINIA, in THEIR DIFFERENT RESOLUTIONS [above quoted] upon the SUBJECTS OF THE TARIFF, COLONIZATION SOCIETY, AND INTERNAL IMPROVEMENTS."

N. B. It is understood that Tennessee has adopted similar resolutions in relation to the Tariff and Internal Improvements.

## MASSACHUSETTS.

Feb. 9, 1830. Resolution of the Massachusetts Legislature, declaring the late Treaty with Great Britain, relative to the North-eastern boundary "*null and void*."

Resolved, That the adoption of the said line, so recommended by the King of the Netherlands, as a part of the north-eastern boundary of the United States, would deprive this Commonwealth and the State of Maine of large tracts of territory, which, upon any imaginable result of such survey of the northern and eastern boundaries, as is authorized by the fifth article of the treaty of Ghent, belong respectively, in sovereignty and property, to the said State and the said Commonwealth.

Resolved, That the Government of the United States has no constitutional right to cede any portion of the territory of the States composing the Union, to any foreign power, or to deprive any State of any land, or other property, without the consent of such State, previously obtained; of the States of Massachusetts and Maine, would be a violation of the rights of jurisdiction and property, belonging respectively to the said States, and secured to them by the Federal Constitution; and that any act, purporting to have such effect, would be WHOLLY NULL and VOID, and IN NO WAY OBLIGATORY upon the government or people of either of the said States.

Resolved, That, as the adoption, by the Government of the United States, of the aforesaid new boundary line, so recommended by the said King of the Netherlands, would deprive the Commonwealth of Massachusetts of large tracts of land, without equivalent, it is not expedient for the said Commonwealth to give consent thereto; and that the General Court hereby solemnly protest against such adoption, declaring that any act, purporting to have effect, will have been performed without the consent of the Commonwealth, and in violation of the rights thereof, as secured by the Federal Constitution, and will be consequently NULL and VOID, and in NO WAYS OBLIGATORY upon the Government or people."

Resolved, That the General Court have received with satisfaction, the communication made to them through his Excellency the Governor, from the Government of the State of Maine, of the proceedings of the said Government upon this subject; that they reciprocate the friendly sentiments, which have been expressed on this occasion, by that Government, and will readily and cheerfully co-operate with the State of Maine, in such measures as shall be best calculated to prevent the adoption, by the Government of the United States, of the new boundary line, recommended, as aforesaid, by the King of the Netherlands.

Resolved, That the Senators of this Commonwealth, in Congress, be instructed, and the Representatives thereof requested, to use their influence to prevent the adoption, by the Government of the United States, of the aforesaid new boundary.

Resolved, That his Excellency the Governor be requested to transmit a copy of these resolves and of the report preceding them, to each of the Senators and Representatives of the Commonwealth in Congress, to his Excellency the Governor of Maine, and to the Governors of all the other States in the Union.

## MAINE.—Report and Resolution adopted by the Legislature of Maine, Feb. 28th, 1831.

Resolved, That the Convention of September, 1827, tended to violate the Constitution of the United States, and to impair the *sovereign rights and powers of the State of Maine*, and that MAINE IS NOT BOUND BY THE CONSTITUTION TO SUBMIT to the decision which is or shall be made under the Convention.

Resolved, In the opinion of the Legislature, that the decision of the King of the Netherlands cannot and ought not to be considered as OBLIGATORY upon the Government of the United States either upon the principles of right, justice, and honor.

Resolved, further, for the reasons before stated, that no division made by any umpire under any circumstances, if the decision dismembers a State, has, or can have, ANY CONSTITUTIONAL FORCE OR OBLIGATION UPON THE STATE thus dismembered, unless the State adopt and sanction the decision.

## Report and Resolutions adopted January, 1832.

The course which shall be adopted by the General Government, as well as by this State, is pregnant with most important consequences; and while the people of Maine look to the *wisdom and power of the Union* for that protection which the Federal Constitution guarantees to each State THEY ALSO LOOK TO THIS LEGISLATURE for the adoption of all measures which may tend to obtain that protection, and to secure to every citizen of Maine the sacred rights of *liberty, and protection of persons and property*, when acting under the CONSTITUTIONAL LAWS OF THE STATE.

The State having protested against the right of the General Government to submit to arbitration a question which might jeopardise our territorial rights, and having adopted sundry resolutions and reports of legislative committees, expressive of her views in relation to this subject, which have been communicated to the General Government, and may be referred to, your committee do not deem it necessary, at this time, to enter more into detail; but they recommend the adoption of the resolutions, which are herewith respectfully submitted.

## STATE OF MAINE.

Resolves respecting the North-eastern Boundary.

*Resolved*, That the Constitution of the United States does not invest the General Government with unlimited and absolute powers, but confers only a special and modified sovereignty, without authority to cede to a foreign power any portion of territory belonging to a State, without its consent.)

*Resolved*, "That if there is an attribute of State sovereignty which is unqualified and undeniable, it is the right of jurisdiction, to the utmost limits, of State territory; and if a single obligation, under the Constitution, rests upon the confederacy, it is to guaranty the integrity of this territory to the quiet and undisturbed enjoyment of the States."

*Resolved*, That the doings of the King of Holland, on the subject of the boundary between the United States and Great Britain, are not a decision of the question submitted to the King of the Netherlands, and that his recommendation of a suitable or convenient line of boundary is NOT OBLIGATORY upon the parties to the submission.

*Resolved*, That this State protests against the adoption, by the Government of the United States, of the line of boundary recommended by the King of Holland as a suitable boundary between Great Britain and the United States, inasmuch as it will be a violation of the rights of Maine—rights acknowledged and insisted upon by the General Government—and will be a precedent, which endangers the integrity, as well as the independence, of every State in the Union.

*Resolved*, That while the people of this State are disposed to yield a ready obedience to the Constitution and laws of the United States, they will NEVER CONSENT TO RENDER ANY PORTION OF THEIR TERRITORY on the recommendation of a foreign power.

*Resolved*, That the Governor, with the advice of Council, be authorized to appoint a competent agent, whose duty it shall be, as soon as may be, to repair to the city of Washington, and deliver to the President of the United States a copy of the preceding report and these resolutions, with a request that he will lay the same before the Senate of the United States; and also to deliver a copy to the Vice-President, to each of the heads of the Departments, and to each member of the Senate, and to our representatives in Congress.

*Resolved*, That our senators in Congress be instructed, and our representatives requested, to use their best efforts to prevent our State from being dismembered, our territory alienated, and our just rights prostrated, by the adoption of a new line for our northeastern boundary, as recommended by the King of Holland.

*Resolved*, That the agent to be appointed by the Governor and Council, be instructed to co-operate with our senators and representatives, in advocating and enforcing the principles advanced, and positions taken, in the foregoing resolutions, and in supporting all such measures as shall be deemed best calculated to preserve the integrity of our State, and prevent any portion of our territory and citizens from being transferred to a foreign power.

IN THE HOUSE OF REPRESENTATIVES, January 18, 1832.

Read and passed:

BENJAMIN WHITE, *Speaker*.

IN SENATE, January 19, 1832.

Read and passed:

ROBERT P. DUNLAP, *President*.

JANUARY 19th, 1832.

Approved

SAM'L E. SMITH.

STATE OF MAINE.

SECRETARY OF STATE'S OFFICE, AUGUSTA, January 20th, 1832.

A true copy.

Attest:

R. G. GREENE, *Secretary of State*.

## OHIO.

The proceedings of the Ohio Legislature in 1820, against the Bank of the United States, to prevent its establishment in that State

*"Resolved by the General Assembly of the State of Ohio*, That in respect to the powers of the governments of the several States which compose the American Union, and the powers of the Federal Government, this General Assembly do recognize and approve the doctrines asserted by the Legislatures of Virginia and Kentucky, in their resolutions of November and December, 1798, and January 1800—and do consider that their principles have been recognized and adopted by a majority of the American people."

On this subject, the *Report*, which precedes the Resolutions, contains the following words:

"The States and the People recognized and affirmed the Doctrines of Kentucky and Virginia, by effecting a total change in the administration of the Federal Government. In the pardon of Calender, convicted under the Sedition Law, and in the remittance of his fine, the new Administration unequivocally recognized the decision and the authority of the States and of the people."

Thus has the question whether the Federal Courts are the sole expositors of the Constitution of the United States, in the last resort, or whether the States, "as in all other cases of compact among parties having no common judge," have an equal right to interpret that Constitution for themselves, where their sovereign rights are involved, been decided against the pretension of the FEDERAL JUDGES, by the people themselves, the true source of legitimate power."

Resolutions against the Jurisdiction of the United States Court in the case of the Bank, and all cases involving political rights; and against the powers of the General Government, establishing the Bank, in these words:

*"Resolved further*, That this General Assembly do PROTEST against the doctrines of the Federal Circuit Court, sitting in this State, avowed and maintained in their proceedings against the officers of the State, upon account of their official Acts, as being in direct violation of the 11th amendment to the Constitution of the United States.

*"Resolved further*, That this General Assembly do PROTEST against the doctrine that the political rights of the separate States that compose the American Union, and their powers as SOVEREIGN STATES, may be settled and determined in the Supreme Court of the United States, so as to conclude and bind them in cases CONTRIVED between individuals, and where are, no one of them, parties direct.



"Resolved further, That the Governor transmit to the Governors of the several States a copy of the foregoing Report and Resolutions to be laid before their respective Legislatures, with a request from this Assembly that the Legislature of each State may express their opinion upon the matters therein named.

"Resolved further, That the Governor transmit a copy of the foregoing Report and Resolutions to the President of the United States, and to the President of the Senate and Speaker of the House of Representatives of the United States to be laid before their respective Houses—that the principles upon which this State has, and does proceed, may be fairly and distinctly understood.

NEW YORK.—In the Legislature of New York, on the 8th Nov. 1824—

Mr. Tallmadge in the House of Assembly offered a Resolution against the Right of Congress to licence, and to demand Tonnage Duties from Canal boats in that State, which was adopted almost unanimously, declaring that "Whereas it appears to this Legislature, after due consideration that the claim on the part of the United States, to require boats which navigate our Canals, to be enrolled or licensed and to pay Tonnage Duties, is a claim not founded on any legal right—and in regard to the circumstances under which it is made, such claim is so evidently unjust and oppressive, that the *interference of its State is called for in defence of its citizens*—Therefore:

Resolved, (If the Senate concur) that the Senators of this State in the Senate of the United States, be directed, and the Representatives of this State, in the House of Representatives of the United States be requested to use their utmost endeavors to prevent any such unjust and oppressive exaction for Tonnage Duties on boats navigating the Canals from being carried into effect."

This was the *first Step* of resistance. Eighteen months after this, Mr. VAN BUREN in the United States' Senate, gave notice that his State "*would resist to the last extremity.*" The following are his remarks in the Senate of the United States, May 19, 1826.

"From that time (1824) to the present, or until very recently no steps have been taken by the Government to enforce its claim—nor in behalf of the State; to shield herself against injustice."

"From unofficial and informal explanations, it was supposed that the *pretensions* of the General Government would not be renewed. Mr. Van Buren said that he had read in the public papers, that instructions had recently been given to the Collector of Buffalo, to demand of every boat navigating the Canal, a Tonnage Duty, and an entrance fee. He had understood the same, from other, though unofficial sources. This, he observed, was a subject in which the people of the State of New York, as would naturally be supposed, took a deep interest. They look upon this claim as in every way unwarrantable: and if submitted to—destructive of their highest and dearest interests. As, however, there might be a mistake on the subject, though he feared there was none, he would for the present, forbear making those animadversions which, should the case be as represented, the duties of his station would impose upon him. All that he would now say was—that in behalf of the State, he contended that the Act of 1793, was not intended to embrace waters of the description to which it has been attempted to extend it; that they are not embraced by its terms; and that to apply it to them would be an abuse of power on the part of the officers of the Federal Government. That, if in this mistaken, the act itself was *unauthorized* by the Constitution of the United States, an encroachment on the rights of the State, which she ought, and would resist to the last extremity."

#### EXTRACTS FROM THE FEDERALIST.

In the 31st No. of the Federalist, we have the unqualified admission, that "*the State Governments, by their original constitutions, are invested with complete sovereignty.*" If completely sovereign, originally, then they had the right of judging and acting for themselves; they could not be bound by acts to which they had never consented.

In the next paper (32d) we are told to what extent this original, perfect sovereignty had been yielded up. "An entire consolidation of the States, into one complete, national sovereignty, would imply an entire subordination of the parts; and whatever powers might remain in them would altogether dependant on the general will. But as the plan of the Convention aims only at a partial Union or consolidation, the State Governments would clearly retain *all the rights of sovereignty which they before had, and which were not, by that act, exclusively delegated by the U. States.*" This exclusive delegation, or rather this alienation of State sovereignty, would only exist in three cases; where the Constitution, in express terms, granted an exclusive authority to the Union—where it granted, in one instance, an authority to the Union, and in another, prohibited the States from exercising the like authority—and where it granted an authority to the Union, to which a similar authority in the States would be absolutely and totally *contradictory and repugnant.*"

This original sovereignty, then, according to the Federalist, is as perfect and complete as ever, in all cases where it has not been directly and distinctly granted away. The grant must be express. A State can be as little bound by acts to which she never consented, the power of doing which she never gave, as if she had never become a member of the Union. These are conclusions that inevitably follow from the admissions of the Federalist.

The 33d No. is a vindication of two clauses of the constitution, of which one has been the favorite resource of the constrictorists, and the other is still both sword and shield to the Submissionists. They are as follows:

"Congress shall have power," &c.

"The constitution and the laws of the United States, made in pursuance thereof," &c.

Of these clauses, the authors assert that they do not carry an atom of power, which the general government would not have had without them; that they were introduced merely for greater caution. This is perfectly obvious. He then goes on thus:

"It is clear then, on the other hand, that those who maintain the entire subordination of the parts, believe our Government a Consolidation, and that whatever powers the States still retain are strictly dependant on the general will.

"But it may be again asked, who is to judge of the necessity and propriety of the laws to be passed for executing the powers of the Union? I answer, first, that this question arises as well and as fully upon the simple grant of those powers, as upon the declaratory clause: and I answer, in the second place, that the National Government, like every other, must judge, in the first instance, of the proper exercise of its powers; and its constituents in the last. *If the Federal Government should overpass the just bounds of its authority, and make a tyrannical use of its powers; the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify.*

But it is said, that the laws of the Union are to be the *supreme law* of the land. What inference can be drawn from this, or what would they amount to, if they were not to be supreme? It is evident that they would amount to nothing. A LAW, by the very meaning of the term, includes supremacy. It is a rule, which those to whom it is prescribed are bound to observe. This results from every political association. If individuals enter into a state of society, the laws of that society must be the supreme regulator of the conduct. If a number of political societies enter into a larger political society, the laws which the latter may enact, pursuant to the powers intrusted to it by its constitution, must necessarily be supreme over those societies and the individuals of whom they are composed. It would otherwise be a mere treaty, dependant on the good faith of the parties, and not a government; which is only another word for **POLITICAL POWER AND SUPREMACY.**—But it will not follow from this doctrine, that acts of the larger society, which are *not pursuant* to its constitutional powers, but which are invasions of the residuary authorities of the smaller societies, will become the supreme law of the land. These will be merely acts of usurpation, and will deserve to be treated as such. Hence we perceive, that the clause which declares the supremacy of the laws of the Union, like the one we have just before considered, only declares a truth, which flows immediately and necessarily from the institution of a Federal Government. It will not, I presume, have escaped observation, that it *expressly* confines this supremacy to laws made *pursuant to the Constitution*, which I mention merely as an instance of caution in the Convention; since that limitation would have been to be understood, though it had not been expressed."

It is our design to shew that in all undelegated cases, the prerogative of State action was recognized by the framers of the Government; and we shall endeavor to prove this, by quotations from the writings we have alluded to, as authority which we presume no one will deny.

All this is clear enough, it may be said, in cases *where the power has not been delegated*; still the question recurs, *who is to determine* what cases are of that class? We would say in reply, that any State has a right to make this question, and to suspend the law until it is determined by the original parties to the compact. The definitive character of this interposition is unfolded by what follows:—

"It may be safely received as an axiom in our political system," says the Federalist, "that the *State Governments* will in all contingencies afford complete security against invasion of the public liberty, by the national authority. Projects of usurpation cannot be masked under pretences (for example to protect manufactures under the pretence to raise revenue) so likely to escape the penetration of select bodies of men, as of the people at large." If these words are to be understood in their common acceptation, State interposition is here expressly referred to, as a means of protection against powers usurped by the General Government.

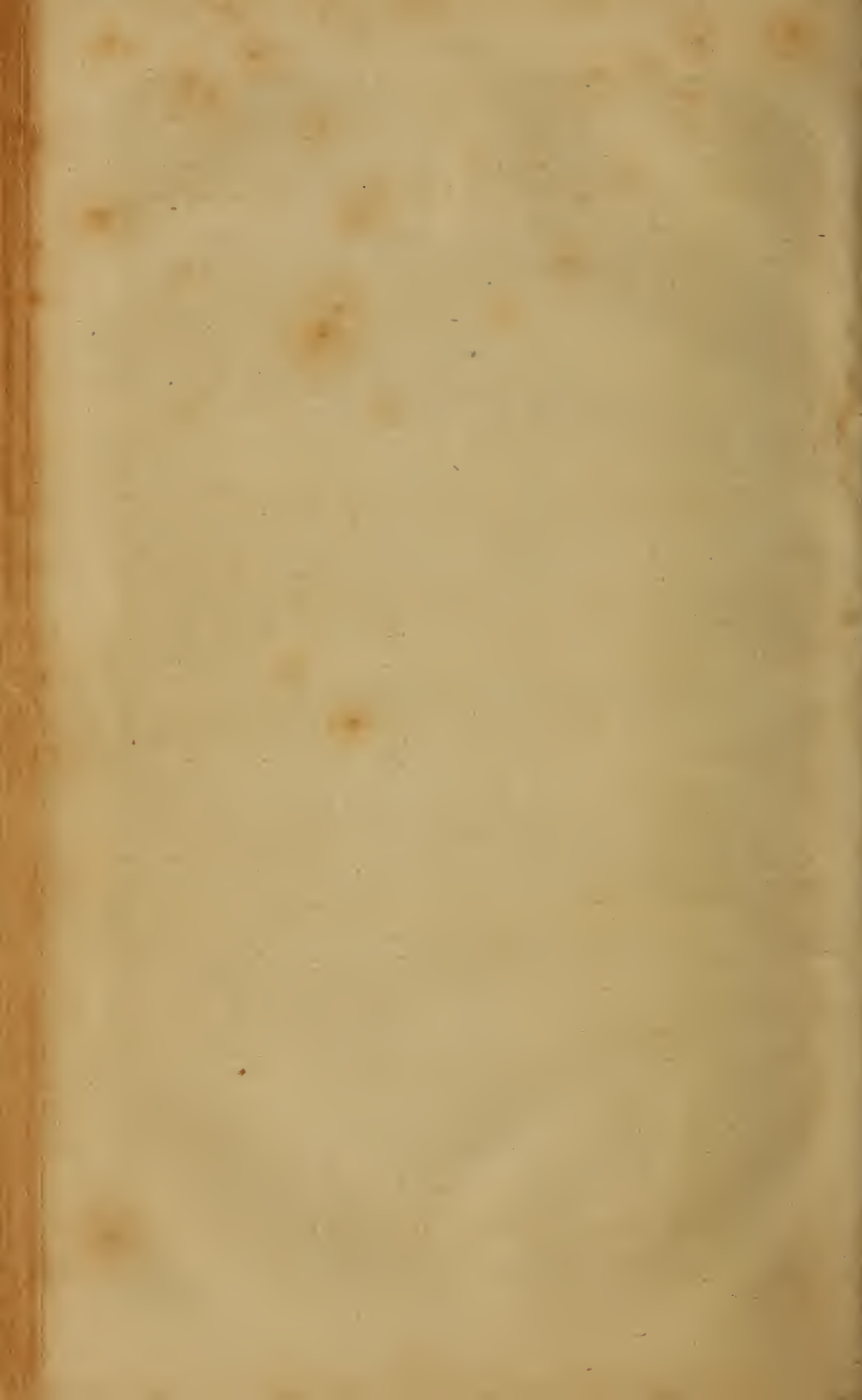
Again, "power being almost always the rival of power, the General Government will at all times stand ready to check the usurpations of State Governments, and *these* will give the same dispositions towards the General Government. The people, by throwing themselves into either scale, will make it preponderate. *If their rights are invaded by either they CAN MAKE USE OF THE OTHER AS THE INSTRUMENT OF REDRESS.* How wise will it be in them, by cherishing the Union, to preserve for themselves an advantage which can never be too highly prized." Here it is expressly declared, and the people felicitated on the occasion, that when their rights are invaded by the General Government, *State interposition* will furnish the means of protection and redress.

"Every one will remember the remarkable event in Roman history, which led to the institution of the tribunes. The Plebeians being opposed by the Patricians, withdrew to a mountain about three miles from Rome, afterwards called the *Sacred Mountain*. Nor could they be prevailed on to return, until they obtained magistrates of their own to protect their rights, whose persons should be inviolable. These magistrates were called Tribunes. They had a negative upon all the proceedings of the Senate, and actually did *prevent the collections of tribute* and the enlistment of soldiers. This negative was called the veto, and becomes the shield of protection to the Plebeians. Let us here remark that the Tribunes were invested with the sacred and inviolable character, which we believe belongs to the State sovereignty. On this incident the Federalist has the following reflection: "It is well known that in the Roman Republic, the legislative authority in the last resort, resided for ages, in two different political bodies, not as branches of the same legislature, but as distinct and independent legislatures, in each of which an opposite interest prevailed—in one patrician—in the other Plebeian. Many arguments might have been adduced, to prove the unfitness of two such seemingly contradictory authorities, each having power to annul or repeal the acts of the other. But a man would have been regarded as frantic, who should have attempted at Rome, to disprove their existence. And yet these two legislatures coexisted for ages, and the Roman Republic attained to the pinnacle of human greatness."—Now we will ask, for what purpose this event should be so particularly referred to, unless it was as an example that the States cannot be controlled in the exercise of this right, as appears from the following fact—

In the Convention, for adopting the Constitution, the proposition was made "that Congress should have the power to call forth the force of the Union against a refractory State (which we suppose is what a Nullifying State would be called by the Consolidation men,) and it was indefinitely postponed.









**REVIEW**  
  
OF  
  
**THE DEBATE**  
  
IN THE  
  
**VIRGINIA LEGISLATURE**  
  
OF  
  
**1831 AND 1832.**

---

**BY THOMAS R. DEW,**  
PROFESSOR OF HISTORY, METAPHYSICS AND POLITICAL LAW,  
**WILLIAM AND MARY COLLEGE.**

---

**RICHMOND:**  
Printed by T. W. White, opposite the Bell Tavern.

.....  
**1832.**

*Copy 2*





## PREFACE



THE Essay on the Abolition of Negro Slavery, which is now presented to the public in pamphlet form, was originally intended for the American Quarterly Review. Owing to its inconvenient length, one whole division of the subject, treating of the origin and progress of slavery, was omitted in the Review, and minor portions of the two divisions published, were suppressed. Under these circumstances, the Author has determined to publish the whole article in pamphlet, much enlarged by recent additions. The subject he considers one of great importance, particularly to Virginia. He believes the time has arrived when it must be fully discussed, and he cannot but hope that a full discussion will finally elicit the truth.

The Author has given to the whole question of Abolition the most mature consideration which he has been capable of bestowing, and however inadequate the effort may be, in comparison with the magnitude of the subject, he hopes that all will allow, that he has stated throughout, as fairly and candidly as his limited capacity would allow, the argument on both sides.

He has been enabled to superintend in person but a very small portion of the publication, owing to his official duties and the slowness with which the printing has been executed, at this busy season in Richmond. He has therefore been obliged to trust almost exclusively to his printer, who, from unavoidable circumstances, has been confined principally to the first rough and careless draft. He hopes therefore, in regard to any inaccuracies which may appear in the composition, he may lay claim to the indulgence of his readers.

*William and Mary College, Va. Dec. 12, 1832.*





## ABOLITION OF SLAVERY.

1.—*Debate in the Virginia Legislature of 1831-32, on the Abolition of Slavery.* Richmond.

2.—*Letter of Appomattox to the People of Virginia on the subject of the Abolition of Slavery.* Richmond.

IN looking to the texture of the population of our country, there is nothing so well calculated to arrest the attention of the observer, as the existence of Negro Slavery throughout a large portion of the confederacy. A race of people differing from us in colour and in habits, and vastly inferior in the scale of civilization, have been increasing and spreading, "growing with our growth and strengthening with our strength," until they have become intertwined and interwisted with every fibre of society. Go through our Southern country, and every where you see the negro slave by the side of the white man; you find him alike in the mansion of the rich, the cabin of the poor, the workshop of the mechanic, and the field of the planter. Upon the contemplation of a population framed like this, a curious and interesting question readily suggests itself to the inquiring mind:—Can these two distinct races of people now living together as master and servant, be ever separated? Can the black be sent back to his African home, or will the day ever arrive when he can be liberated from his thralldom, and mount upwards in the scale of civilization and rights, to an equality with the white? This is a question of truly momentous character; it involves the whole frame work of society, contemplates a separation of its elements, or a radical change in their relation, and requires for its adequate investigation the most complete and profound knowledge of the nature and sources of national wealth and political aggrandizement—an acquaintance with the elastic and powerful spring of population and the causes which invigorate or paralyze its energies, together with a clear perception of the varying rights of man amid all the changing circumstances by which he may be surrounded, and a profound knowledge of all the principles, passions and susceptibilities which make up the moral nature of our species; and according as they are acted upon by adventitious circumstances, alter our condition, and produce all that wonderful variety of character which so strongly marks and characterizes the human family. Well then does it behoove even the wisest statesman to approach this august subject with the utmost circumspection and diffidence; its wanton agitation even is pregnant with mischief; but rash and hasty action threatens, in our opinion, the whole Southern country with irremediable ruin. The evil of *yesterday's* growth, may be extirpated *to-day*, and the vigour of society may heal the wound; but that which is the growth of *ages*, may require *ages* to remove. The Parliament of Great Britain, with all its philanthropic zeal, guided by the wisdom and eloquence of such statesmen as Chatham, Fox, Burke, Pitt, Canning and Brougham, has never yet seriously agitated this question, in regard to the West India possessions. Revolutionary France, actuated by

the most intemperate and phrenetic zeal for liberty and equality, attempted to legislate the free people of colour in the Island of St. Domingo into all the rights and privileges of the whites; and but a season afterwards, convinced of her madness, she attempted to retrace her steps, but it was too late; the deed had been done, the bloodiest and most shocking insurrection ever recorded in the annals of history, had broken out, and the whole Island was involved in frightful carnage and anarchy, and France in the end, has been stript "of the brightest jewel in her crown,"—the fairest and most valuable of all her colonial possessions. Since the revolution, France, Spain and Portugal, large owners of colonial possessions, have not only not abolished slavery in their colonies, but have not even abolished the slave trade in practice.

In our Southern slave-holding country, the question of emancipation has never been seriously discussed in any of our legislatures, until the whole subject, under the most exciting circumstances, was, during the last winter, brought up for discussion in the Virginia Legislature, and plans of partial or total abolition were earnestly pressed upon the attention of that body. It is well known, that during the last summer, in the county of Southampton in Virginia, a few slaves, led on by Nat Turner, rose in the night, and murdered in the most inhuman and shocking manner, between sixty and seventy of the unsuspecting whites of that county. The news, of course, was rapidly diffused, and with it consternation and dismay were spread throughout the State, destroying for a time all feeling of security and confidence; and even when subsequent development had proved, that the conspiracy had been originated by a fanatical negro preacher, (whose confessions prove beyond a doubt mental aberration,) and that this conspiracy embraced but few slaves, all of whom had paid the penalty of their crimes, still the excitement remained, still the repose of the Commonwealth was disturbed,—for the ghastly horrors of the Southampton tragedy could not immediately be banished from the mind—and *Rumour*, too, with her thousand tongues, was busily engaged in spreading tales of disaffection, plots, insurrections, and even massacres, which frightened the timid and harassed and mortified the whole of the slave-holding population. During this period of excitement, when reason was almost banished from the mind, and the imagination was suffered to conjure up the most appalling phantoms, and picture to itself a crisis in the vista of futurity, when the overwhelming numbers of the blacks would rise superior to all restraint, and involve the fairest portion of our land in universal ruin and desolation, we are not to wonder, that even in the lower part of Virginia, many should have seriously inquired, if this supposed monstrous evil could not be removed from our bosom. Some looked to the removal of the free people of colour by the efforts of the Colonization Society, as an antidote to all our ills. Some were disposed to strike at the root of the evil—to call on the General Government for aid, and by the labors of *Hercules*, to extirpate the curse of



slavery from the land. Others again, who could not bear that Virginia should stand towards the General Government (whose unconstitutional action she had ever been foremost to resist,) in the attitude of a suppliant, looked forward to the legislative action of the State as capable of achieving the desired result. In this state of excitement and unallayed apprehension, the Legislature met, and plans for abolition were proposed and earnestly advocated in debate.

Upon the impropriety of this debate, we beg leave to make a few observations. Any scheme of abolition proposed so soon after the Southampton tragedy, would necessarily appear to be the result of that most inhuman massacre. Suppose the negroes, then, to be really anxious for their emancipation, no matter on what terms, would not the extraordinary effect produced on the legislature by the Southampton insurrection, in all probability, have a tendency to excite another? And we must recollect, from the nature of things, no plan of abolition could act suddenly on the whole mass of slave population in the State. Mr. Randolph's was not even to commence its operation till 1840. Waiting then, one year or more, until the excitement could be allayed and the empire of reason could once more have been established, would surely have been productive of no injurious consequences; and, in the mean time, a Legislature could have been selected which would much better have represented the views and wishes of their constituents on this vital question. Virginia could have ascertained the sentiments and wishes of other slave-holding States, whose concurrence, if not absolutely necessary, might be highly desirable, and should have been sought after and attended to, at least as a matter of State courtesy. Added to this, the texture of the Legislature was not of that character calculated to ensure the confidence of the people in a movement of this kind. If ever there was a question debated in a deliberative body, which called for the most exalted talent, the longest and most tried experience, the utmost circumspection and caution, a complete exemption from prejudice and undue excitement where both are apt to prevail, an ardent and patriotic desire to advance the vital interests of the State, uncombined with mere desire for vain and ostentatious display, and with no view to party or geographical divisions, that question was the question of the *abolition of slavery* in the Virginia Legislature. "*Grave and reverend seniors,*" "the very fathers of the Republic," were indeed required for the settlement of a question of such magnitude. It appears, however, that the Legislature was composed of an unusual number of young and inexperienced members, elected in the month of April previous to the Southampton massacre, and at a time of profound tranquillity and repose, when of course the people were not disposed to call from their retirement their most distinguished and experienced citizens.

We are very ready to admit, that in point of ability and eloquence, the debate transcended our expectations. One of the lead-

ing political papers in the State remarked—"We have never heard any debate so eloquent, so sustained, and in which so great a number of speakers had appeared, and commanded the attention of so numerous and intelligent an audience." . . . . "Day after day, multitudes throng to the capital, and have been compensated by eloquence which would have illustrated Rome or Athens." But however fine might have been the rhetorical display, however ably some isolated points might have been discussed, still we affirm, with confidence, that no enlarged, wise, and practical plan of operations, was proposed by the abolitionists. We will go farther, and assert that their arguments, in most cases, were of a wild and intemperate character, based upon false principles and assumptions of the most vicious and alarming kind; subversive of the rights of property and the order and tranquillity of society; and portending to the whole slave-holding country—if they ever shall be followed out in practice—the most inevitable and ruinous consequences. Far be it, however, from us, to accuse the abolitionists in the Virginia Legislature, of any settled malevolent design to overturn or convulse the fabric of society. We have no doubt that they were acting conscientiously for the best; but it often happens that frail imperfect man, in the too ardent and confident pursuit of imaginary good, runs upon his utter destruction.

We have not formed our opinion lightly upon this subject; we have given to the vital question of abolition the most mature and intense consideration which we are capable of bestowing, and we have come to the conclusion—a conclusion which seems to be sustained by facts and reasoning as irresistible as the demonstration of the mathematician—that every plan of emancipation and deportation which we can possibly conceive, is *totally* impracticable. We shall endeavor to prove, that the attempt to execute these plans can only have a tendency to increase all the evils of which we complain, as resulting from slavery. If this be true, then the great question of abolition will necessarily be reduced to the question of emancipation, with a permission to remain, which we think can easily be shown to be utterly subversive of the interests, security, and happiness, of both the blacks and whites, and consequently hostile to every principle of expediency, morality, and religion. We have heretofore doubted the propriety even of too frequently agitating, especially in a public manner, the question of abolition, in consequence of the injurious effects which might be produced on the slave population. But the Virginia Legislature, in its zeal for discussion, boldly set aside all prudential considerations of this kind, and openly and publicly debated the subject before the world. The seal has now been broken, the example has been set from a high quarter; we shall therefore, waive all considerations of a prudential character which have heretofore restrained us, and boldly grapple with the abolitionists on this great question. We fear not the result, so far as truth, justice, and expediency alone are concerned. But we must be permitted to say, that we do most deeply



dread the effects of misguided philanthropy, and the marked, and we had like to have said, impertinent intrusion in this matter, of those who have no interest at stake, and who have not that intimate and minute knowledge of the whole subject so absolutely necessary to wise action.

Without further preliminary, then, we shall advance to the discussion of the question of abolition; noticing not only the plans proposed in the Virginia Legislature, but some others likewise. And, as the subject of slavery has been considered in every point of view, and pronounced, in the *abstract* at least, as entirely contrary to the law of nature, we propose taking in the first place, a hasty view of the origin of slavery, and point out the influence which it has exerted on the progress of civilization, and to this purpose it will be necessary to look back to other ages—cast a glance at nations differing from us in civilization and manners, and see whether it is possible to mount to the source of slavery.

### I. *Origin of Slavery and its Effects on the Progress of Civilization.*

Upon an examination of the nature of man, we find him to be almost entirely the creature of circumstances—his habits and sentiments are in a great measure the growth of adventitious causes—hence the endless variety and condition of our species. We are almost ever disposed, however, to identify the course of nature, with the progress of events in our own narrow contracted sphere; we look upon any deviation from the constant round in which *we* have been spinning out the thread of our existence, as a departure from nature's great system; and from a known principle of our nature, our first impulse is to condemn. It is thus that the man born and nurtured in the lap of freedom, looks upon slavery as unnatural and horrible; and if he be not instructed upon the subject, is sure to think that so unnatural a condition could never exist but in few countries or ages—in violation of every law of justice and humanity; and he is almost disposed to implore the divine wrath, to shower down the consuming fire of Heaven on the Sodoms and Gomorras of the world, where this unjust practice prevails.

But, when he examines into the past condition of mankind, he stands amazed at the fact which history develops to his view.—“Almost every page of ancient history,” says Wallace, in his *Dissertation on the Numbers of Mankind*, “demonstrates the great multitude of slaves; which gives occasion to a melancholy reflection, that the world when best peopled, was not a world of free-men, but of slaves:”\* “And in every age and country, until times comparatively recent,” says Hallam, “personal servitude appears to have been the lot of a large, perhaps the greater portion of mankind.”†

Slavery was established and sanctioned by Divine Authority, among even the elect of Heaven—the favoured children of Israel.

\* P. 93. Edinburgh Edition, † Middle Ages, vol. 1, p. 120, Philadelphia Edition.

Abraham, the founder of this interesting nation, and the chosen servant of the Lord, was the owner of *hundreds* of slaves—that magnificent shrine, the Temple of Solomon, was reared by the hands of slaves. Egypt's venerable and enduring piles were reared by similar hands. Slavery existed in Assyria and Babylon. The ten tribes of Israel were carried off in bondage to the former by Shalmanezar, and the two tribes of Judah were subsequently carried in triumph by Nebuchadnezzar to beautify and adorn the latter. Ancient Phœnicia and Carthage had slaves—the Greeks and Trojans at the siege of Troy, had slaves—Athens, and Sparta, and Thebes, indeed the whole Grecian and Roman worlds, had more slaves than freemen. And in those ages which succeeded the extinction of the Roman Empire in the West, "*Servi* or slaves," says Dr. Robertson, "seem to have been the most numerous class."\* Even in this day of civilization, and the regeneration of governments, slavery is far from being confined to our hemisphere alone. The Serf and Labour rents prevalent throughout the whole of Eastern Europe and a portion of Western Asia; and the Ryot rents throughout the extensive and over populated countries of the East, and over the dominions of the Porte in Europe, Asia and Africa, but too conclusively mark the existence of slavery over these boundless regions. And when we turn to the vast continent of Africa, we find slavery in all its most horrid forms, existing throughout its whole extent—the slaves being at least three times more numerous than the freemen; so that, looking to the whole world, we may even now with confidence assert, that slaves, or those whose condition is infinitely worse, form by far the largest portion of the human race!

Well then, may we here pause, and inquire a moment—for it is surely worthy of inquiry—how has slavery arisen and thus spread over our globe? We shall not pretend to enumerate accurately, and in detail, all the causes which have led to slavery; but we believe the principal may be summed up under the following heads: 1st, Laws of War—2nd, State of Property and Feebleness of Government—3rd, Bargain and Sale—and 4th, Crime.

1st. *Laws of War.*—There is no circumstance which more honorably and creditably characterizes modern warfare than the humanity with which it is waged, and the mildness with which captives are treated. Civilized nations, with but few exceptions, now act in complete conformity with the wise rule laid down by Grotius, "That in war we have a right only to the use of those means which have a connection *morally necessary* with the end in view." Consequently, we have no just right, where this rule is adhered to by our adversary, to enslave or put to death enemies *non combatant*, who may be in our possession—for this in modern times, among civilized nations, is not *morally necessary* to the attainment of the end in view. On the contrary, if such a practice were commenced

\*See Robertson's Works, vol. 3, p. 186.



now, it would only increase the calamities of the belligerents, by converting their wars into wars of extermination, or rapine, and plunder—terminated generally with infinitely less advantage, and more difficulty to each of the parties. But humane and advantageous as this mitigated practice appears, we are not to suppose it universal, or that it has obtained in all ages. On the contrary, it is the growth of modern civilization, and has been confined in a great measure to civilized Europe and its colonies.

Writers on the progress of society, designate three stages in which man has been found to exist. First, the hunting or fishing state—second, the pastoral—third, agricultural. Man in the hunting state, has ever been found to wage war in the most cruel and implacable manner—extermination being the object of the belligerent tribes. Never has there been a finer field presented to the philosopher, for a complete investigation of the character of any portion of our species, than the whole American hemisphere presented for the complete investigation of the character of savages in the hunting and fishing state.

Doctor Robertson has given us a most appalling description of the cruelties with which savage warfare was waged throughout the whole continent of America and the barbarous manner in which prisoners were every where put to death. He justly observes that “the bare description is enough to chill the heart with horror, wherever men have been accustomed, by milder institutions, to respect their species, and to melt into tenderness at the sight of human sufferings. The prisoners are tied naked to a stake, but so as to be at liberty to move round it. All who are present, men, women and children, rush upon them like furies. Every species of torture is applied that the rancour of revenge can invent; some burn their limbs with red hot iron, some mangle their bodies with knives, others tear their flesh from their bones, pluck out their nails by the roots, and rend and twist their sinews. Nothing sets bounds to their rage but the dread of abridging the duration of their vengeance by hastening the death of the sufferers; and such is their cruel ingenuity in tormenting, that by avoiding industriously to hurt any vital part, they often prolong the scene of anguish for several days.”\* Let us now inquire into the cause of such barbarous practices, and we shall find that they must be imputed principally to the passion of revenge. In the language of the same eloquent writer whom we have just quoted; “in small communities every man is touched with the injury or affront offered to the body of which he is a member, as if it were a personal attack on his own honor and safety. War, which between extensive kingdoms is carried on with little animosity, is prosecuted by small tribes with all the rancour of a private quarrel. When polished nations have obtained the glory of victory, or have acquired an addition of territory, they may terminate a war with honor. But savages

\*See Robertson's America, Philad. Ed. vol. 1, p. 197.

are not satisfied, until they extirpate the community which is the object of their hatred. They fight not to conquer, but destroy." "The desire of vengeance is the first and almost the only principle, which a savage instils into the minds of his children. The desire of vengeance which takes possession of the hearts of savages, resembles the instinctive rage of an animal, rather than the passion of a man."\* Unfortunately too, interest conspires with the desire of revenge, to render savage warfare horrible. The wants of the savage, it is true, are few and simple; but limited as they are, according to their mode of life it is extremely difficult to supply them. Hunting and fishing afford at best a very precarious subsistence. Throughout the extensive regions of America, population was found to be most sparsely scattered, but thin as it was, it was most wretchedly and scantily supplied with provisions. Under these circumstances, prisoners of war could not be kept, for the feeding of them would be sure to produce a famine.† They would not be sent back to their tribe, for that would strengthen the enemy. They could not even make slaves of them, for their labour would have been worthless. Death then was unfortunately the punishment, which was prompted both by interest and revenge. And accordingly, throughout the whole continent of America, we find with but one or two exceptions, that this was the dreadful fate which awaited the prisoners of all classes, men women and children. In fact, this has been the practice of war, wherever man was found in the first stages of society—living on the precarious subsistence of the chase. The savages of the Islands of Andaman, in the East, supposed by many to be lowest in the scale of civilization, of Van Diemen's land, of New Holland, and of the Islands of the South Pacific‡ are all alike,—they all agree in the practice of exterminating enemies by the most perfidious and cruel conduct; and, throughout many extensive regions, the horrid practice of feasting on the murdered prisoner prevails.§

What is there, let us ask, which is calculated to arrest this horrid practice, and to communicate an impulse towards civilization? Strange as it may sound in modern ears, it is the institution of property and the existence of slavery. Judging from the univer-

\*See Robertson's America, vol. 1, pp. 192, 193.

† "If a few Spaniards settled in any district, such a small addition of supernumerary mouths soon exhausted their scanty stores and brought on famine."—*Doctor Robertson*, page 182.

‡ Capt. Cook, in his third voyage, says of the natives in the neighborhood of Queen Charlotte's Sound, "If I had followed the advice of all our pretended friends, I might have extirpated the whole race, for the people of each hamlet or village, by turns applied to me to destroy the other." . . . "It appears to me that the New Zealanders must live in perpetual apprehensions of being destroyed by each other."

§ Among the Iroquois, says Dr. Robertson, the phrase by which they express their resolution of making war against an enemy, is, "let us go and eat that nation." If they solicit the aid of a neighboring tribe, they invite it to eat broth made of the flesh of their enemies. Among the Abnakis, according to the "Lettres Edif. et Curieuses," the chief, after dividing his warriors into parties, says to each, to you is given such a hamlet to eat, to you such a village, &c. Capt. Cook, in his third voyage, says of the N. Zealanders, "perhaps the desire of making a good meal (on prisoners) is no small inducement" (to go to war).



sality of the fact, we may assert that domestic slavery seems to be the only means of fixing the wanderer to the soil, moderating his savage temper, mitigating the horrors of war, and abolishing the practice of murdering the captives. In the pure hunting state, man has little idea of property, and consequently there is little room for distinction, except what arises from personal qualities.—People in this state, retain therefore a high sense of equality and independence. It is a singular fact, that the two extremes of society are most favorable to liberty and equality—the most savage and the most refined and enlightened—the former in consequence of the absence of the institution of property—and the latter from the diffusion of knowledge and the consequent capability of self government. The former is characterized by a wild, licentious independence, totally subversive of all order and tranquillity, and the latter by a well ordered, well established liberty, which while it leaves to each the enjoyment of the fruits of his industry, secures him against the lawless violence and rapine of his neighbors. Throughout the whole American continent, this equality and savage independence seem to have prevailed, except in the comparatively great kingdoms of Mexico and Peru, where the right to property was established.

So soon as private right to property is established, slavery commences, and with the institution of slavery the cruelties of war begin to diminish. The chief finds it to his interest to make slaves of his captives, rather than put them to death. This system commences with the shepherd state, and is consummated in the agricultural; slavery therefore seems to be the chief means of mitigating the horrors of war. Accordingly, wherever among barbarous nations they have so far advanced in civilization as to understand the use which may be made of captives, by converting them into slaves, there the cruelties of war are found to be lessened.

Throughout the whole continent of Africa, in consequence of the universal prevalence of slavery, war is not conducted with the same barbarous ferocity as by the American Indian. And hence it happens, that some nations become most cruel to those whom they would most wish to favor. Thus, on the borders of Persia, some of the tribes of Tartars massacre all the true believers who fall into their hands, but preserve heretics and infidels; because their religion forbids them to make slaves of true believers, and allows them to use or sell all others at their pleasure.\*

In looking to the history of the world, we find that interest, and *interest* alone, has been enabled successfully to war against the fiercer passion of revenge. The only instance of mildness in war among the savages of North America, results from the operation of interest. Sometimes, when the tribe has suffered great loss of numbers, and stands very much in need of recruits, the prisoner is

\* Tacitus tells us that civil wars are always the most cruel, because the prisoners are not made slaves.

saved, and adopted (says Robertson,) as a member of the nation. Pastoral nations require but few slaves, and consequently they save but few prisoners for this purpose. Agricultural require more, and this state is the most advantageous to slavery. Prisoners of war are generally spared by such nations, in consideration of the use which may be made of their labor.

It is curious in this respect, to contemplate the varied success with which, under various circumstances, the principle of self interest combats that of vengeance. The barbarians who overran the Roman Empire, existed principally in the pastoral state; they brought along with them their wives and children, and consequently they required extensive regions for their support and but few slaves. We find accordingly, they waged a most cruel, exterminating war, not even sparing women and children. "Hence," says Dr. Robertson, in his preliminary volume to the History of Charles the 5th, "If a man were called to fix upon a period in the history of the world, during which the condition of the human race was most calamitous and afflicted, he would, without hesitation, name that which elapsed from the death of Theodosius the Great, (A. D. 395,) to the reign of Alboinus in Lombardy," (A. D. 571.) At the last mentioned epoch, the barbarian inundations spent themselves, and consequently repose was given to the world.

Slavery was very common at the siege of Troy; but in consequence of the very rude state of agriculture prevalent in those days, and the great reliance placed on the spontaneous productions of the earth, the same number of slaves was not required as in subsequent ages, when agriculture had made greater advances. Hence we find the laws of war of a very cruel character—the principle of revenge triumphing over every other. These are the evils, we are informed by Homer, that follow the capture of a town—"the men are killed, the city is burned to the ground, the women and children of all ranks are carried off for slaves," (Iliad, L. 9.) Again: "Wretch that I am," says the venerable Priam, "what evil does the great Jupiter bring on me in my old age? My sons slain, my daughters dragged into slavery, violence pervading even the chambers of my palace, and the very infants dashed against the ground in horrid sport of war. I myself, slain in the vain office of defence, shall be the prey of my own dogs perhaps in the very palace gates"! (Iliad, L. 22.)

In after times, during the glorious days of the Republics of both Greece and Rome, the wants of man had undergone an enlargement; agriculture had been pushed to a high state of improvement, population became more dense, and consequently a more abundant production, and more regular and constant application of labor became necessary. At this period, slaves were in great demand, and therefore the prisoners of war were generally spared in order that they might be made slaves. And this mildness did not arise so much from their civilization, as from the great demand for slaves. All the Roman generals, even the mild Julius, were



sufficiently cruel to put to death when they did not choose to make slaves of the captives. Hence, as cruel as were the Greeks and Romans in war, they were much milder than the surrounding barbarous nations. In like manner, the wars in Africa have been made perhaps more mild by the *slave trade*, than they would otherwise have been. Instances are frequent, where the prisoner has been immediately put to death, because a purchaser could not be found. The report of the Lords in 1789, speaks of a female captive in Africa, for whom an anker of brandy had been offered—but before the messenger arrived, her head was cut off. Sir George Young saved the life of a beautiful boy, about five years old, at Sierra Leone: the child was about to be thrown into the river by the person that had him to sell, because he was too young to be an object of trade; but Sir George offered a quarter cask of Madeira for him, which was accepted.\* A multitude of such instances might easily be cited from commanders of vessels and travellers, who have ever visited Africa. And thus do we find, by a review of the history of the world, that slavery alone which addresses itself to the principle of self interest is capable of overcoming that inordinate desire of vengeance which glows in the breast of the savage; and therefore we find the remark made by Voltaire, in his *Phi. Dic.* that “Slavery is as ancient as war, and war as human nature” is not strictly correct; for many wars have been too cruel to admit of slavery. //

Let us now close this head by an inquiry into the justice of slavery, flowing from the laws of war. And here we may observe in the first place, that the whole of the ancient world, and all nations of modern times verging on a state of barbarism—never for a moment doubted this right. All history proves that they have looked upon slavery as a mild punishment, in comparison with what they had a right to inflict. And so far from being conscience-stricken, when they inflicted the punishment of death or slavery, they seemed to glory in the severity of the punishment—and to be remorseful only when from some cause they had not inflicted the worst. “Why so tender hearted?” says Agamemnon to Menalaus, seeing him hesitate, while a Trojan of high rank, who had the misfortune to be disabled by being thrown from his chariot, was begging for life,—“Are you and your house so beholden to the Trojans? Let not one of them escape destruction from our hands—no, not the child within his mother’s womb. Let all perish unmourned.”—And the poet even, gives his sanction to this inhumanity of Agamemnon, who was never characterized as inhuman: “It was justly spoken, (says Homer) and he turned his brother’s mind.” And the suppliant was murdered by the hand of the king of men. “When the unfortunate monarch of Troy came to beg the body of his heroic son, (Hector) we find the conduct of Achilles marked by a superior spirit of generosity. Yet, in the very act of grant-

\* See Edwards’ *West Indies*, vol. 2, book 4, chap. 4.

ing the pious request, he doubts if he is quite excusable to the soul of his departed friend, for remitting the extremity of vengeance which he had meditated, and restoring the corse to secure the rites of burial.”\* To ask them, whether men, with notions similar to these, had a right to kill or enslave the prisoner, would almost be like gravely inquiring into the right of tigers and lions to kill each other and devour the weaker beasts of the forest. If we look to the Republics of Greece and Rome, in the days of their glory and civilization, we shall find no one doubting the right to make slaves of those taken in war. “No legislator of antiquity,” says Voltaire, “ever attempted to abrogate slavery; on the contrary, the people the most enthusiastic for liberty—the Athenians, the Lacedæmonians, the Romans, and the Carthagenians—were those who enacted the most severe laws against their serfs. Society was so accustomed to this degradation of the species, that Epictetus, who was assuredly worth more than his master, never expresses any surprise at his being a slave.”† Julius Cæsar, has been reckoned one of the mildest and most clement military chieftains of antiquity, and yet there is very little doubt, that the principal object in the invasion of Britain, was to procure slaves for the Roman slave markets. When he left Britain, it became necessary to collect together a large fleet for the purpose of transporting his captives across the channel. He sometimes ordered the captive chiefs to be executed, and he butchered the whole of Cato’s Senate when he became master of Utica. Paulus Emilius, acting under the special orders of the Roman Senate, laid all Epirus waste, and brought 150,000 captives in chains to Italy, all of whom were sold in the Roman slave markets. Augustus Cæsar, was considered one of the mildest, most pacific and most politic of the Roman Emperors, yet when he rooted out the nation of the Salassii, who dwelt upon the Alps, he sold 36,000 persons into slavery. Cato, was a large owner of slaves, most of whom he had purchased in the slave markets at the sale of prisoners of war.‡ Aristotle, the greatest philosopher of antiquity, and a man of as capacious mind as the world ever produced, was a warm advocate of slavery—maintaining that it was reasonable, necessary and natural, and accordingly in his model of a republic, there were to be comparatively few freemen served by many slaves.§

¶ If we turn from profane history to Holy Writ—that sacred fountain whence are derived those pure precepts, and holy laws and regulations by which the christian world has ever been governed, we shall find that the children of Israel, under the guidance of Jehovah, massacred or enslaved their prisoners of war. So far from considering slavery a curse, they considered it a punishment much too mild, and regretted from this cause alone its infliction. //

\* See Mitford’s Greece, vol. 1, chap. 2, sec. 4.

† See Philosophical Dictionary, title “Slaves.”

‡ See Plutarch’s Lives, Cato the elder.

§ Aristotle’s Politics, book 1, chap. 4.



“The children of Israel, when they marched upon the tribes of Canaan, were in a situation very similar to the Northern invaders who overran the Roman Empire. They had their wives and children along with them, and wished to make Canaan their abode. Extermination therefore, became necessary; and accordingly, we find that the Gibeonites alone, who practised upon the princes of Israel by a fraud, escaped the dreadful scene of carnage. They were enslaved, and so far from regretting their lot, they seem to have delighted in it; and the children of Israel, instead of mourning over the destiny of the enslaved Gibeonites, murmured that they were not massacred—“and all the congregation murmured against the princes.” And the answer of the princes was, “we will even let them live, lest wrath be upon us, because of the oath which we swear unto them.” “But let them be hewers of wood and drawers of water unto all the congregation, as the princes had promised them.”\*

But it is needless to multiply instances farther to illustrate the ideas of the ancient world in regard to their rights to kill or enslave at pleasure the unfortunate captive. Nor will we now cite the example of Africa, the great storehouse of slavery for the modern world, which so completely sustains our position in regard to the opinions of men on this subject, farther than to make an extract from a speech delivered in the British House of Commons by Mr. Henniker, in 1789, in which the speaker asserts that a letter had been received by George III, from one of the most powerful of African potentates, the Emperor of Dahomey, which letter admirably exemplifies African's notions about the right to kill or enslave prisoners of war. “He (Emperor of Dahomey) stated,” said Mr. H., “that as he understood King George was the greatest of white kings, so he thought himself the greatest of black ones. He asserted that he could lead 500,000 men armed into the field, that being the pursuit to which all his subjects were bred, and the women only staying at home to plant and manure the earth. He had himself fought two hundred and nine battles, with great reputation and success, and had conquered the great king of Ardah. The king's head was to this day preserved with the flesh and hair; the heads of his generals were distinguished by being placed on each side of the doors of their Fetiches; with the heads of the inferior officers they paved the space before the doors; and the heads of the common soldiers formed a sort of fringe or out work round the walls of the palace. Since this war, he had experienced the greatest good fortune, and he hoped in good time to be able to complete the out walls of all his great houses, to the number of seven, in the same manner.”†

Mr. Norris, who visited this empire in 1772, actually testifies to the truth of this letter. He found the palace of the Emperor an

\* See 9th chapter of Joshua.

† See Hazlitt's British Eloquence, vol. 2.

immense assemblage of cane and mud tents enclosed by a high wall. The skulls and jaw bones of enemies slain in battle, formed the favorite ornaments of the palaces and temples. The king's apartments were paved, and the walls and roof stuck over with these horrid trophies. And if a farther supply appeared at any time desirable, he announced to his general, that "his house wanted thatch," when a war for that purpose was immediately undertaken.\* Who can for a moment be so absurd as to imagine that such a prince as this could doubt of his right to make slaves in war, when he *gloried* in being able to thatch his houses with the heads of his enemies? Who could doubt that any thing else than a strong sense of interest, would ever put an end to such barbarity and ferocity? Our limits will not allow us to be more minute, however interesting the subject.

And, therefore, we will now examine into the right, according to the law of nations—the strict *jus gentium*—and we shall find all the writers agree in the justice of slavery, under certain circumstances. Grotius says, that, as the law of nature permits prisoners of war to be killed, so the same law has introduced the right of making them slaves, that the captors, in view to the benefit arising from the labor or sale of their prisoners, might be induced to spare them.† From the general practice of nations before the time of Puffendorf, he came to the conclusion that slavery has been established "by the free consent of the opposing parties."‡

Rutherforth, in his Institutes, says "since all the members of a nation, against which a just war is made, are bound to repair the damages that gave occasion to the war, or that are done in it, and likewise to make satisfaction for the expenses of carrying it on; the law of nations will allow those who are prisoners to be made slaves by the nation which takes them; that so their labor or the price for which they are sold, may discharge these demands." But he most powerfully combats the more cruel doctrine laid down by Grotius, that the master has a right to take away the life of his slave.§ Bynkershoek, contends for the higher right of putting prisoners of war to death: "We may however (enslave) if we please" he adds, "and indeed we do sometimes still exercise that right upon those who enforce it against us. Therefore the Dutch are in the habit of selling to the Spaniards as slaves, the Algerines, Tunisians and Tripolitans, whom they take prisoners in the Atlantic or Mediterranean. Nay, in the year 1661, the states general, gave orders to their admiral, to sell as slaves all the pirates that he should take. The same thing was done in 1664."|| Vattel, the most humane of all the standard authors on National law, asks—"are prisoners of war to be made slaves?" To which he answers, "Yes;

\* See Family Library, No. 16, p. 199.

† L. 3, chap. 7, sec. 5.

‡ Book 6, chap. 3.

§ Book, chap. 9, sec. 17.

|| Treatise on the Law of War, Du Ponceau's Edition, p. 21.



in cases which give a right to kill them, when they have rendered themselves personally guilty of some crime deserving death.”\* Even Locke, who has so ably explored all the faculties of the mind, and who so nobly stood forth against the monstrous and absurd doctrines of Sir Robert Filmer and the *passive submissionists* of his day, admits the right to make slaves of prisoners whom we might justly have killed. Speaking of a prisoner who has forfeited his life, he says, “he to whom he has forfeited it may, when he has him in his power, delay to take it, and make use of him to his own service, and he does him no injury by it.”† Blackstone, it would seem, denies the right to make prisoners of war slaves; for he says we had no right to enslave unless we had the right to kill, and we had no right to kill, unless “in cases of absolute necessity, for self-defence; and it is plain this absolute necessity did not subsist, since the victor did not actually kill him, but made him prisoner.”‡ Upon this we have to remark 1st. that Judge Blackstone here speaks of slavery in its pure unmitigated form, “whereby an unlimited power is given to the master over the life and fortune of the slave.”§ Slavery scarcely exists any where in this form, and if it did it would be a continuance of a state of war, as Rousseau justly observes, between the captive and the captor. Again—Blackstone, in his argument upon this subject, seems to misunderstand the grounds upon which civilians place the justification of slavery, as arising from the laws of war. It is well known that most of the horrors of war spring from the principle of retaliation, and not as Blackstone supposes, universally from “absolute necessity.” If two civilized nations of modern times are at war, and one hangs up without any justifiable cause all of the enemy who fall into its possession, the other does not hesitate to inflict the same punishment upon an equal number of its prisoners. It is the “*lex talionis*,” and not absolute necessity, which gives rise to this.

The colonists of this country up to the revolution, during, and even since that epoch, have put to death the Indian captives, whenever the Indians had been in the habit of massacring indiscriminately. It was not so much absolute necessity as the law of retaliation, which justified this practice; and, the civilians urge that the greater right includes the lesser; and, consequently, the right to kill involves the more humane and more useful right of enslaving. In point of fact, it would seem the Indians were often enslaved by the colonists.|| And although we find no distinct mention made by any of the historians of the particular manner in which this slavery arose, yet it is not difficult to infer that it must have arisen from the laws of war, being a commutation of the punishment of death for slavery. Again—if the nation with which you are at war

\* See Law of Nations, book 3, chap. 8, sec. 152.

† On Civil Government, chap. 6.

‡ See Tucker's Blackstone, vol. 2, p. 423.

§ Blackstone's Commentaries, in loco citato.

|| See Tucker's Blackstone, vol. 2, Appendix, note H.

makes slaves of all your citizens falling into its possession, surely you have the right to retaliate and do so likewise. It is the "*lex talionis*," and not absolute necessity, which justifies you; and, if you should choose from policy to waive your right, your ability to do so would not surely prove that you had no right at all to enslave. Such a doctrine as this would prove that the rights of belligerents, were in the inverse ratio of their strength—a doctrine which, pushed to the extreme, would always reduce the hostile parties to a precise equality—which is a perfect absurdity. If we were to suppose a civilized nation in the heart of Africa, surrounded by such princes as the King of Dahomey, there is no doubt but that such a nation would be justifiable in killing or enslaving at its option, in time of war, and if it did neither, it would relinquish a *perfect right*.\* We have now considered the most fruitful source of slavery, *Laws of War*, and shall proceed more briefly to the consideration of the other three which we have mentioned, taking up—

2d. *State of Property and Feebleness of Government*.—In tracing the manners and customs of a people who have emerged from a state of barbarism, and examining into the nature and character of their institutions, we find it of the first importance to look to the condition of property, in order that we may conduct our inquiries with judgment and knowledge. The character of the government, in spite of all its forms, depends more on the condition of property, than on any one circumstance beside. The relations which the different classes of society bear towards each other, the distinction into high and low, noble and plebeian, in fact, depend almost exclusively upon the state of property. It may be with truth affirmed, that the exclusive owners of the property ever have been, ever will, and perhaps ever ought to be, the virtual rulers of mankind. If then, in any age or nation, there should be but one species of property, and that should be exclusively owned by a portion of citizens, that portion would become inevitably the masters of the residue. And if the government should be so feeble as to leave each one in a great measure to protect himself, this circumstance would have a tendency to throw the property into the hands of a few, who would rule with despotic sway over the many. And this was the condition of Europe during the middle ages, under what was termed the *feudal system*. There was in fact, but one kind of property, and that consisted of land. Nearly all the useful arts had perished,—commerce and manufactures could scarcely be said to exist at all, and a dark night of universal ignorance enshrouded the human mind. The landholders of Europe, the feudal aristocrats, possessing all the property, necessarily and inevitably as fate itself, usurped all the power; and in consequence of

\* We shall hereafter see that our colony at Liberia may at some future day, be placed in an extremely embarrassing condition from this very cause. It may not in future wars have strength sufficient to forego the exercise of the right of killing or enslaving, and if it have the strength, it may not have the mildness and humanity. Revenge is *sweet*, and the murder of a brother or father, and the slavery of a mother or sister will not easily be forgotten.



the feebleness of government, and the resulting necessity that each one should do justice for himself, the laws of primogeniture and entails were resorted to as a device to prevent the weakening of families by too great a subdivision or alienation of property, and from the same cause, small *allodial* proprietors were obliged to give up their small estates to some powerful baron or large landholder in consideration of protection, which he would be unable to procure in any other manner.\* Moreover, the great landholders of those days had only one way of spending their estates, even when they were not barred by entails, and that was by employing a large number of retainers,—for they could not then spend their estates as spendthrifts generally squander them, in luxuries and manufactures, in consequence of the rude state of the arts—all the necessities of man being supplied directly from the farms;† and the great author of the wealth of nations, has most philosophically remarked, that few great estates have been spent from benevolence alone. And the people of those days could find no employment except on the land, and consequently were entirely dependent on the landlords, subject to their caprices and whims, paid according to their pleasure, and entirely under their control; in fine, they were *slaves complete*. Even the miserable cities of the feudal times were not independent, but were universally subjected to the barons or great landholders, whose powerful protection against the lawless rapine of the times, could only be purchased by an entire surrender of liberty.‡

Thus the property of the feudal ages was almost exclusively of one kind. The feebleness of government, together with the laws of primogeniture and entails, threw that property into the hands of a few, and the difficulty of alienation, caused by the absence of all other species of property, had a tendency to prevent that change of possession which we so constantly witness in modern times.—Never was there then perhaps so confirmed and so permanent an aristocracy as that of the feudal ages; it naturally sprang from the condition of property and the obstacles to its alienation. The aristocracy alone embraced in those days the freemen of Europe; all the rest were slaves, call them by what name you please, and doomed by the unchanging laws of nature to remain so till commerce and manufactures had arisen and with them had sprung into existence a new class of capitalists, the *tiers etat* of Europe, whose existence first called for new forms of government, and whose exertions either have or will revolutionize the whole of Europe. A revolution in the state of property is always a premonitory symptom of a revolution in government and in the state of society, and

\* Upon this subject, see Robertson's 1st vol. Hist. Charles 5th, Hallam's Middle Ages, Gilbert Stuart on the Progress of Society, and all the writers on feudal tenures.

† "There is not a vestige to be discovered, for several centuries, of any considerable manufactures." . . . "Rich men kept domestic artisans among their servants; even kings in the ninth century, had their clothes made by the women upon their farms."—Hallam's *Middle Ages*, vol. 2, pp. 260, 261, *Philad. Edition*.

‡ Upon this subject, see both Hallam and Robertson.

without the one, you cannot meet with permanent success in the other. The slaves of Southern Europe could never have been emancipated, except through the agency of commerce and manufactures and the consequent rapid rise of cities, accompanied with a more regular and better protected industry, producing a vast augmentation in the products which administer to our necessities and comforts, and increasing in a proportionate degree the sphere of our wants and desires. In the same way we shall shew, before bringing this article to a close, that if the slaves of our Southern country shall ever be liberated and suffered to remain among us with their present limited wants and longing desire for a state of idleness, they would fall inevitably, by the nature of things, into a state of slavery from which no government could rescue them, unless by a radical change of all their habits and a most awful and fearful change in the whole system of property throughout the country. The state of property then may fairly be considered a very fruitful source of slavery. It was the most fruitful source during the feudal ages—it is the foundation of slavery throughout the Northeastern regions of Europe and the populous countries of the continent of Asia. We are even disposed to think, contrary to the general opinion, that the condition of property operated prior to the customs of war in the production of slavery. We are fortified in this opinion, by the example of Mexico and Peru in South America. In both of these empires, certainly the farthest advanced and most populous of the new world, “private property,” says Dr. Robertson, “was perfectly understood, and established in its full extent.” The most abject slavery existed in both these countries, and what still farther sustains our position, it very nearly, especially in Mexico, resembled that of the feudal ages. “The great body of the people was in a most humiliating state. A considerable number, known by the name of *Mayerques*, nearly resembling in condition those peasants who, under various denominations, were considered during the prevalence of the feudal system, as instruments of labor attached to the soil. Others were reduced to the lowest form of subjection, that of domestic servitude, and felt the utmost rigor of that wretched state.”\*

Now, slavery in both these countries must have arisen from the state of property, for the laws of war were entirely too cruel to admit of the slavery of captives among the Mexicans. “They fought,” says Dr. Robertson, “to gratify their vengeance, by shedding the blood of their enemies—no captive was ever ransomed or spared.”† And the Peruvians, though much milder in war, seem not to have made slaves of their captives, though we must confess that there is great difficulty in explaining their great comparative clemency to prisoners in war, unless by supposing they were made slaves.‡ We have no doubt likewise, if we could obtain suffi-

\* Robertson's *America*, pp. 105, 107. † *Ibid.* vol. 2, p. 114.

‡ We are sorry we have not the means of satisfactorily investigating this subject. If slavery was established among them from the laws of war, it would be one of the



cient insight into the past history and condition of Africa, that slavery would be found to have arisen in many of those countries, rather from the state of property than the laws of war; for even to this day, many of the African princes are too cruel and sanguinary in war to forego the barbarous pleasure of murdering the captives, and yet slavery exists in their dominions to its full extent.

We will not here pause to examine into the justice or injustice of that species of slavery, which is sure to arise from a faulty distribution of property, because it is the inevitable result of the great *law of necessity*, which itself has no law, and consequently about which it is utterly useless to argue. We will therefore proceed at once to the third cause assigned for slavery—*bargain and sale*.

3d. *Cause of Slavery, Bargain and Sale*.—This source of slavery might easily be reduced to that which depends on the state of property, but for the sake of perspicuity, we prefer keeping them apart. Adam Smith has well observed that there is a strong propensity in man, “to truck, barter and exchange one thing for another,” and both the parties generally intend to derive an advantage from the exchange. This disposition seems to extend to every thing susceptible of being impressed with the character of property or exchangeable value, or from which any great or signal advantage may be derived—it has been made to extend at times to life and liberty. Generals in time of war, have pledged their lives for the performance of their contracts. At the conclusion of peace, semi-barbarous nations have been in the habit of interchanging hostages—generally the sons of princes and noblemen—for the mutual observance of treaties, whose lives were forfeited by a violation of the plighted faith; and in all ages, where the practice has not been interdicted by law, individuals have occasionally sold their own liberty or that of others dependent on them. We have already seen how the small allodial possessors, during the feudal ages, were obliged to surrender their lands and liberty to some powerful baron for that protection which could be procured in no other manner. Throughout the whole ancient world, the sale of one’s own liberty, and even that of his children, was common. The non-payment of debts, or failure to comply with contracts, frequently subjected the unfortunate offender to slavery in both Greece and Rome. Instances of slavery from bargain and sale, occur in Scripture. Joseph was sold to the Ishmaelites for *twenty pieces* of silver, and carried down to Egypt in slavery. But this was a black and most unjustifiable act on the part of his envious brothers.—There are other parts of Scripture where the practice of buying and selling slaves seems to be justified. The Hebrew laws permitted the selling of even the Jews into slavery for six years. “If thou buy a Hebrew servant, six years he shall serve, and in the seventh he shall go out free for nothing.” And if the servant

most triumphant examples which history affords of the effect of slavery, in mitigating the cruelties of war; for it is a singular fact, that the Peruvians were the only people in the new world, who did not murder their prisoners.

chose at the expiration of six years to remain with his master as a slave, he might do so on having his ear bored through with an awl. It seems fathers could sell their children—Thus: “and if a man sell his daughter to be a maid servant, she shall not go out as the men servants do.”\* An unlimited right to purchase slaves from among foreigners seems to have been granted, whether they had been slaves or not before the purchase; thus, in the twenty-fifth chapter of Leviticus, we find the following injunction:—“Both thy bondmen and bondmaids which thou shalt have, *shall be* of the heathen that are round about you; of them *shall ye* buy bondmen and bondmaids. Moreover, of the children of strangers who sojourn among you, of them shall ye buy, and of the families that *are* with you, which they begat in your land; and they shall be your possession. And ye shall take them as an inheritance for your children after you, to inherit them for a possession; they shall be your *bondmen forever.*”† We may well suppose that few persons would ever be induced to sell themselves or children into slavery, unless under very severe pressure from *want*. Accordingly, we find the practice most prevalent among the most populous and the most savage nations, where the people are most frequently subjected to dirths and famines. Thus, in Hindostan and China, there is nothing more frequent than this practice of selling liberty. “Every year,” said a Jesuit who resided in Hindostan, “we baptize a thousand children whom their parents can no longer feed, or who being likely to die, are sold to us by their mothers in order to get rid of them.” The great legislator of Hindostan, Menu, in his ordinances, which are described by Sir William Jones, justifies this practice in time of scarcity. “Ajigarta,” says Menu in one of his ordinances, “dying with hunger, was going to destroy his own son by selling him for some cattle; yet he was guilty of no crime, for he only sought a remedy against famishing.” “In China,” says Duhalde, “a man sometimes sells his son, and even himself and wife at a very moderate price. The common mode is to mortgage themselves with a condition of redemption, and a great number of men and maid servants are thus bound in a family.” There is no doubt but at this moment in every densely populated country, hundreds would be willing to sell themselves into slavery if the laws would permit them, whenever they were pressed by famine. Ireland seems to be the country of modern Europe most subjected to these dreadful visitations. Suppose then, we reverse the vision of the Kentucky Senator,‡ and imagine that Ireland could be severed during those periods of distress from the Britannic Isle, and could float like the fabled Island of Delos across the Ocean and be placed by our side, and our laws should inhumanely forbid a single son of Erin from entering our territory unless as a slave, to be treated exactly like the African, is there any man acquaint-

\* See 21st chapter of Exodus.

† 44, 45 and 46 verses.

‡ Mr. Clay in the debate on his resolutions on the Tariff, 1832.



ed with the state of the Irish, in years of scarcity, who would doubt for a moment, but that thousands, much as this oppressed people are in love with liberty, would enter upon this hard condition, if they could find purchasers. Indeed, the melancholy fact has too often occurred in Ireland, of individuals committing crimes merely for the purpose of being thrown into the houses of correction, where they could obtain *bread and water*!

Among savages, famines are much more dreadful than among civilized nations, where they are provided against by previous accumulation and commerce. Dr. Robertson has given us a glowing and no doubt correct picture of the dreadful ravages of famine among the North American Indians, and on such occasions we are informed by the "*Lettres Edifiantes et Curieuses*," that the ties of nature are no longer binding. A father will sell his son for a knife or hatchet.\* But, unfortunately, among savages in the hunting state, scarcely any one can do more than maintain himself and one or two children, and therefore cannot afford to keep a slave.

If we turn to Africa, we shall find this cause of slavery frequently operating with all its power; and accordingly Parke has ranked *Famine* as the second among the four causes which he assigns for slavery in Africa. "There are many instances of freemen," says he, "voluntarily surrendering up their liberty to save their lives. During a great scarcity, which lasted for three years in the countries of the Gambia, great numbers of people became slaves in this manner. Dr. Laidley assured me, that at that time, many freemen came and begged with great earnestness, *to be put upon his slave chain*, to save them from perishing with hunger. Large families are very often exposed to absolute want, and as the parents have almost unlimited authority over their children, it frequently happens in all parts of Africa, that some of the latter are sold to purchase provisions for the rest of the family. When I was at Jarra, Damon Jumma pointed out to me three young slaves which he had purchased in this manner."† Bruce, in his travels in Africa, saw whole villages and districts of country depopulated by the famines which had visited them, and gives us a most appalling picture of the walking skeletons and lawless rapine which were every where exhibited during those frightful periods of distress.—We cannot wonder then, under these circumstances, that famine should be a fruitful source of slavery, by giving rise to a sale of liberty for the preservation of life.

The remark of Judge Blackstone as to this kind of slavery is known to every one—that every sale implies a "*quid pro quo*"—but that in the case of slavery there can be no equivalent, no *quid pro quo*—for nothing is an equivalent for liberty; and even the purchase money, or the price whatever it might be, would instantly be-

\* Tom. 8.

† Parke's Travels in Africa, chap. 22, page 216, N. Y. Edition.

long to the master of the slave.\* Upon this we would remark, that Blackstone seems to have his attention fixed exclusively on those countries where every man can easily maintain himself, and where consequently his life can never be in jeopardy from want. If there is any country in the world to which his argument will apply, that country is ours. We believe every man here may obtain a subsistence, either by his own exertions or by the aid of the poor rates. But this is far from being the case with semi-barbarous or densely populated countries. Again—Blackstone alludes to that pure state of slavery where, a man's life, liberty and property, are at the mercy of his master. That is far from being the condition of slavery now. In most parts of the world the slave is carefully protected in life, limb and even in a moderate share of liberty, by the policy of the laws; and his nourishment and subsistence are positively enjoined. Where this is the case, we can imagine many instances in which *liberty* might have an *equivalent*. Who for a moment can doubt but that the abundant daily supplies of subsistence, consisting of wholesome *meat, bread*, and frequently vegetables and refreshing drinks besides, which are furnished to our slaves, are more than an equivalent for the liberty of the Chinese laborer, who exhausts himself with hard labor—feeds on his scanty and unseasoned rice,—tastes no wholesome meat from the beginning to the end of the toilsome year,—sees his family frequently perishing before his eyes, or more cruel still, consents himself to be the executioner, in order that he may release them from the intolerable torments of unsatisfied wants, and who, even in seasons of ordinary supply, fishes up with eagerness the vilest garbage from the river or canal, and voraciously devours meat which with us would be left to be fed on by the vultures of the air. The fact is, the laborer in this hard condition is already a slave, or rather in a situation infinitely worse than slavery—he is subjected to all the hardships and degradation of the slave and derives none of the advantages. In the case of famine, the *equivalent* seems to be *life for liberty*; and when this is the case, although the *philosopher* may consider death as preferable to slavery—"yet," says Parke, "the poor negro when fainting with hunger thinks like Esau of old, "*behold I am at the point to die, and what profit shall this birthright do to me.*" The reason why persons do not more frequently sell themselves into slavery is, because they are forbidden by the laws, or can find no purchasers. So far from persons not selling their liberty because there is no equivalent, it is directly the contrary in most countries; the price or equivalent, consisting of continued support, protection, &c. is too great—more than can be afforded. The capitalist in Great-Britain, could not afford to purchase the operative and treat him as we do the slave; the price paid, the *quid pro quo* of Blackstone would be more than the liberty would be worth. We have no doubt, if the English laws were to allow of slavery, such as we have in this country, there would

† Tucker's Blackstone, vol. 2, page 423.



be many more persons wishing to sell their liberty than of those wishing to buy! But whether the remarks of Judge Blackstone are correct in theory or not, is a matter of no practical importance; for in point of fact, as we have shewn by undeniable testimony, *bargain and sale* have ever been a most fruitful source of slavery in ancient times, and among many people of the present day; and consequently we could not premit it in a general survey of the sources of slavery. We shall now proceed to a consideration of the last mentioned source of slavery.

4th. *Crime*.—All governments, even those of the States of our confederacy, have ever been considered as perfectly justifiable in enslaving for crime. All our penitentiaries are erected upon this principle, and slavery in them, of the most abject and degrading character, endures for a certain number of months, years, or for life, according to the offence. In South America and Russia the criminals are frequently sentenced to slavery in the mines, and in France and England to the galleys and work houses; but as it is principally with domestic slavery that we are concerned in this article, we shall not consider farther that which is of a public character.

Throughout the ancient world, domestic slavery, arising from crime, seems to have been very common. We have already spoken of the slavery which was inflicted frequently on insolvent debtors in both Greece and Rome. In Africa too, we find *insolvency* a very frequent source of slavery. "Of all the offences," says Parke, "if *insolvency* may be so called, to which the laws of Africa have affixed the punishment of slavery, this is the most common. A negro trader commonly contracts debts on some mercantile speculation, either from his neighbors to purchase such articles as will sell to advantage in a distant market, or from the European traders on the coast—payment to be made in a given time. In both cases, the situation of the adventurer is exactly the same: if he succeeds, he may secure an independency; if he is unsuccessful, his person and services are at the disposal of another—for in Africa not only the effects of the insolvent, but the insolvent himself, is sold to satisfy the lawful demands of his creditors."\* *Insolvency* however, is, after all, rather a misfortune than a crime; and we rank it here as a crime more in deference to the institutions of the ancients and the customs of certain modern nations, than as an indication of our own sentiments—for we are decidedly of opinion, that slavery is much too high a penalty to be attached to what in many cases is sheer misfortune. But besides *insolvency*, the laws of Africa affix slavery as a punishment to the crimes of *murder*, *adultery* and *witchcraft*. In case of murder, the nearest relation of the murdered, after conviction, may either kill or sell into slavery at his option. In adultery, the offended party may enslave or demand a ransom at pleasure; and as to *witchcraft*, Parke not having met with any trial for this offence, could only assure us that it

\* Parke's Travels in Africa, p. 216.

was a source of slavery, though not common.\* We have now surveyed the principal sources of slavery, and although we do not pretend to be minute and complete in the division which we have made, we hope we have said enough upon this branch to shew that slavery is inevitable in the progress of society, from its first and most savage state to the last and most refined. We started out with announcing the fact, *startling* to those who have never reflected upon the subject, that slavery existed throughout the whole of the ancient, and in a very large portion of the modern world. We have farther shewn by the preceding reasoning, that this was no *accident, the mere result of chance*, but was a *necessary and inevitable* consequence of the principles of human nature and the state of property. We shall now proceed to inquire briefly into the advantages which have resulted to mankind from the institution of slavery.

*Advantages which have resulted to the world from the institution of Slavery.*—When we turn our thoughts from this world “of imperfections” to the God of nature, we love to contemplate him as perfect and immaculate, and amid all the divine attributes with which we delight to clothe him, none stands more conspicuous than his *benevolence*. To look upon him in this light, may be said to be almost the impulse of an instinct of our nature, and the most enlarged experience and perfect knowledge combine in fortifying and strengthening this belief. Accordingly, when we look abroad to the works of omnipotence---when we contemplate the external, the physical world---and again, when we turn to the world of mind, we never find *evil* the sole object and end of creation. *Happiness* is always the main design, evil is merely incidental. All the laws of matter, every principle, and even passion of man, when rightly understood, demonstrate the general benevolence of the Deity, even in this world. “It is perhaps,” says Mr. Allison, “the most striking and the most luminous fact in the history of our intellectual nature, that that principle of curiosity which is the instinctive spring of all scientific inquiry---into the phenomena of matter or of mind, is never satisfied until it terminates in the discovery not only of design, but of benevolent design.” Well then might we have concluded, from the fact that slavery was the *necessary result of the laws of mind and matter*, that it marked some benevolent design, and was intended by our Creator for some useful purpose. Let us inquire then what that useful purpose is, and we have no hesitation in affirming, that slavery has been perhaps the principal means for impelling forward the civilization of mankind. Without its agency, society must have remained sunk into that deplorable state of barbarism and wretchedness which characterized the inhabitants of the western world, when first discovered by Columbus.

We have already spoken of the great advantage of slavery in mitigating the horrors of savage warfare ; but not only is this most

\* Parke's Travels, p. 217.



desirable effect produced, but it has a farther tendency to check the frequency of war, and to destroy that migratory spirit in nations and tribes, so destructive to the peace and tranquillity of the world. Savages living in the hunter's state, must have an extensive range of country for the supply of the wants of even a few persons. "Hence," says Dr. Robertson, "it is of the utmost importance to prevent neighboring tribes from destroying or disturbing the game in their hunting grounds they guard this national property with a jealous attention. But as their territories are extensive, and the boundaries of them not exactly ascertained, innumerable subjects of disputes arise, which seldom terminate without bloodshed."\* Uncertain boundaries, constant roaming through the forest in search of game, and all the unchecked and furious passions of the savage, lead on to constant and exterminating wars among the tribes. What then, let us ask, can alone prevent this constant scene of strife and massacre? Nothing but that which can bind them down to the soil, which can establish *homes and fire-sides*, which can change the wandering character of the savage, and make it his interest to cultivate peace instead of war. Slavery produces these effects: it necessarily leads on to the taming and rearing of numerous flocks, and to the cultivation of the soil. Hunting can never support slavery. Agriculture first suggests the notion of servitude, and, as often happens in the politico-economical world, the effect becomes in turn a powerfully operating cause. Slavery gradually fells the forest, and thereby destroys the haunts of the wild beasts---it gives rise to agricultural production, and thereby renders mankind less dependent on the precarious and diminishing production of the chase---it thus gradually destroys the roving and unquiet life of the savage---it furnishes a home and binds him down to the soil---it converts the idler and the wanderer into the man of business and the agriculturist.

If we look to the condition of Africa, and compare it with that of the American Indians, we shall find a complete illustration of these remarks, and Africa, as we shall soon see, would enjoy a much greater exemption from war, if it were not for the slave trade, whose peculiar operation we shall presently notice.

But secondly, the labor of the slave when slavery is first introduced, is infinitely more productive than that of the freeman. Dr. Robertson, in his history of America, speaks of the acquisition of dominion over the inferior animals, as a step of capital importance in the progress of civilization. It may with truth be affirmed, that the *taming* of man and rendering him fit for labor, is more important than the taming and using the inferior animals, and nothing seems so well calculated to effect this as slavery. Savages have ever been found to be idle and unproductive---except in the chase. The Aborigines of North America resembled rather beasts of prey, says Dr. Robertson, than animals formed for labor. They

\*History of America, vol. 1, p. 192

were not only averse from toil, but seemed at first entirely incapable of it. There is nothing which so completely proves the general indolence and inactivity of the Indians, as their very moderate appetites. Their constitutional temperance exceeded that of the most mortified hermits, and the appetites of the Spaniards (generally reckoned very temperate in Europe,) appeared to the natives insatiably voracious, and they affirmed that one Spaniard devoured in a day more food than was enough for ten Indians.\*

The improvidence and utter recklessness of the savage are noticed too by all the historians. "They follow blindly," says Robertson, "the impulse of the appetite which they feel, but are entirely regardless of distant consequences, and even of those removed in the least degree from immediate apprehension. When on the approach of evening, a Carabee feels himself disposed to go to rest, no consideration will tempt him to sell his hammock. But in the morning, when he is sallying out to the business or pastime of the day, he will part with it for the slightest toy that catches his fancy. At the close of winter, while the impression of what he has suffered from the rigor of the climate is fresh in the mind of the North American, he sets himself with vigor to prepare materials for erecting a comfortable hut to protect him against the inclemency of the succeeding season; but as soon as the weather becomes mild, he forgets what is past, abandons his work, and never thinks of it more, until the return of cold compels him when too late to resume it."† There is nothing but slavery which can destroy those habits of indolence and sloth, and eradicate the character of improvidence and carelessness which mark the independent savage. He may truly be compared to the wild beast of the forest—he must be broke and tamed before he becomes fit for labor and for the task of rearing and providing for a family. There is nothing but slavery which can effect this—the means may appear exceedingly harsh and cruel—and, as among wild beasts many may die in the process of taming and subjugating, so among savages many may not be able to stand the hardships of servitude; but in the end, it leads on to a milder and infinitely better condition than that of savage independence, gives rise to greater production, increases the provisions in nature's great storehouse, and invites into existence a more numerous population, better fed and better provided; and thus gives rise to society, and consequently speeds on more rapidly the cause of civilization. But upon this great, this delicate and all important subject, we wish to risk no vain theories, no unfounded conjectures—from beginning to end we shall speak conscientiously, and never knowingly plant in our bosom a *thorn* which may *rankle* there.

Let us then see, whether the above assertions may not be satisfactorily proved, paradoxical as they may at first appear, by fact

\* Robertson's America, vol. 1, book 4.

† History of America, vol. 1, pp. 170, 171.



and experience. If we turn to the Western world, where an ample field is presented for the contemplation of man in his first and rudest state, we find that slavery existed no where throughout the American continent except in Peru and Mexico, and these were decidedly the most flourishing portions of this vast continent.—“When compared,” says Dr. Robertson, “with other parts of the new world, Mexico and Peru may be considered as polished states. Instead of small independent hostile tribes, struggling for subsistence amidst woods and marshes, strangers to industry and arts, unacquainted with subordination, and almost without the appearance of regular government, we find countries of great extent subjected to the dominion of one sovereign, the inhabitants collected together in cities, the wisdom and foresight of rulers employed in providing for the maintenance and security of the people, the empire of laws in some measure established, the authority of religion recognized, many of the arts essential to life brought to some degree of maturity, and the dawn of such as are ornamental beginning to appear.”\*

Again, in the Islands of the South Sea, Captain Cook was astonished at the populousness of Otaheite and the Society Islands. Slavery seems to have been established through these Islands, and compensated no doubt in part for many of those abominable practices which seem to have been prevalent among the natives.

Again, on turning to Africa, where we find the most abundant and complete exemplification of every species of slavery and its effects, and where consequently the philosophy of the subject may be most advantageously studied, we find most conclusive proof of our assertions. “It deserves *particular* notice, that the nations in this degrading condition (state of slavery) are the most numerous, the most powerful, and the most advanced in all the arts and improvements of life; that if we except the human sacrifices to which blind veneration prompts them, they display even a disposition more amiable, manners more dignified and polished, and moral conduct more correct, than prevail among the citizens of the small free states, who are usually idle, turbulent, quarrelsome and licentious.”† The Africans too, display in a remarkable degree the *love of home* and fondness for their native scenes—a mark of considerable advancement in civilization. “Few of them,” says the author of the history of Africa just quoted, “are nomadic and wandering: they generally have native seats, to which they cling with strong feelings of local attachment. Even the tenants of the Desert, who roam widely in quest of commerce and plunder, have their little watered valleys or circuit of hills, in which they make their permanent abode.”‡ Can any general facts more strikingly illustrate our positions than those which have been just mentioned.

But there is other and abundant testimony on this subject; the

\* Robertson's America, vol. 2, p. 101.

† See Family Library, No. 16, p. 237, Africa.

‡ Family Library, No. 16, p. 228.

difference between the negroes imported into the West Indies, still farther substantiates all we have said. The negroes from Whida or Fida, called in the West Indies *Papaws*, are the best disposed and most docile slaves. The reason seems to be, that the great majority of these people are in a state of *absolute slavery* in Africa, and "Bosman," says Bryan Edwards, "speaks with rapture of the improved state of their soil, the number of villages, and the industry, riches, and obliging manners of the natives."\* So that slavery seems to be an incalculable advantage to them—both in the West Indies and in their own country.

The Koromantyn or Gold Coast negro, is generally stubborn, intractable and unfit for labor at first. His habits in his native country are very similar to those of the North American Indian; he must be broke and tamed before he is fit for labor. When they are thus tamed however, they become the best laborers in the West Indies. "They sometimes," says Bryan Edwards, "take to labor with great promptitude and alacrity, and have constitutions well adapted to it." And he gives as a reason for this, that "many of them have undoubtedly been slaves in Africa." Still this country seems yet too barbarous for a regular system of slavery. Accordingly, the Koromantyns are described as among the most ferocious of the Africans in war, never sparing the life of an enemy except to make him a slave, and that but rarely. Their whole education and philosophy consequently seem directed, as is the case with all savages, to prepare and steel them against the awful vicissitudes to which they are ever liable—they have their *yell* of war, and their *death songs* too. Nothing but slavery can civilize such beings, give them habits of industry, and make them cling to life for its enjoyments.†

Strange as it may seem, we have little hesitation in declaring it as our opinion, that a much greater number of Indians within the limits of the United States would have been saved, had we rigidly persevered in enslaving them, than by our present policy. It is perhaps the most melancholy fact connected with the history of our young republic, that in proportion as the whites have been advancing, the Indians have been constantly and rapidly decreasing in numbers. When our ancestors first settled on this continent, the savages were around and among them, and were every where spread over this immense territory. Now where are they! Where are the warlike tribes that went to battle under their chieftains? They have rapidly disappeared, as the pale faces have advanced. Their numbers have dwindled to insignificance. Within the limits of the ori-

\* Edwards' West Indies, vol. 2, pp. 278, 279.

† This increasing love of life, as an effect of slavery, is exemplified in the following anecdote related by Edwards: "A gentleman of Jamaica, visiting a valuable Koromantyn negro that was sick, and perceiving that he was thoughtful and dejected, endeavored by soothing and encouraging language, to raise his drooping spirits. *Massa*, said the negro, in a tone of self reproach and conscious degeneracy, *since me come to white man's country, me lub (love) life too much.*"—History of the West Indies, vol. 2, p. 275.



ginal states, the primitive stock has been reduced to 16,000. Within the whole United States East of the Mississippi, there are but 105,000; and on the whole of our territory East and West of the Mississippi, extending over 24 degrees of lat. and 58 of lon. there are but 313,130!! Miserable remnant of the myriads of former days! And yet the government of our country has exhausted every means for their civilization, and the philanthropist has not been idle in their behalf. Schools have been erected both public and private; missionaries have been sent among them; and all in vain. The President of the United States now tells you, that their removal farther to the West is necessary—that those who live on our borders, in spite of all our efforts to civilize them, are rapidly deteriorating in character, and becoming every day more miserable and destitute. We agree with the President in this policy—to remove them is all we can now do for them. But after all, the expedient is temporary, and the relief is short lived. Our population will again, and at no distant day, press upon their borders—their game will be destroyed—the intoxicating beverage will be furnished to them—they will engage in wars, and their total extermination will be the inevitable consequence. The *handwriting* has indeed appeared on the *wall*. The mysterious decree of Providence has gone forth against the red man—his destiny is fixed, and final destruction is his inevitable fate. Slavery, we assert again, seems to be the only means that we know of, under Heaven, by which the ferocity of the savage can be conquered, his wandering habits eradicated, his slothfulness and improvidence overcome—by which, in fine, his nature can be changed. The Spaniards enslaved the Indians in South America, and they were the most cruel and *relentless* of masters. Still, under their system of cruel and harsh discipline, an infinitely larger proportion of the Aborigines were saved than with us, and will no doubt, in the lapse of ages, mix and harmonize with the Europeans, and be in all respects their equals.\*

From their inhuman treatment of the Indians at first, numbers died in the process of taming and subjugating; but in the end, their system has proved more humane than ours, and demonstrates beyond a doubt, that nothing is so fit as slavery to change the nature of the savage.† “We observe,” says Humboldt, “and the observation is consoling to humanity, that not only has the num-

\* Humboldt, in his recapitulation of the population of New Spain, gives us the following table:

Indigenous or Indians, .....	2,500,000
Whites or Spaniards, ...	{ Creoles, ..... 1,025,000 } { Europeans, ..... 70,000 } ..... 1,100,000
African Negroes, .....	6,100
Casts of Mixed Blood, .....	1,231,000

[Humboldt's *New Spain*, N. Y. Edition, vol. 2, p. 246.

Again, the number of Indians in Peru is estimated at 600,000, nearly double of the whole Indian population of the United States.—[*Vol. 1*, p. 69.

† We shall soon see that there is not in the annals of history, an instance of such rapid improvement in civilization, as that undergone by the negro slaves in our country, since the time they were first brought among us.

ber of Indians in South America and Mexico, been on the increase for the last century, (he published his work in 1808,) but that the whole of the vast region which we designate by the general name of New Spain, is much better inhabited at present, than it was before the arrival of the Europeans."\* He gives a very remarkable instance of the effects of even unjust slavery on the industry and agriculture of the country. He speaks of the *Alcaldias Mayores*, a sort of provincial magistrates and judges in Mexico, forcing the Indians to purchase cattle of them, and afterwards reducing them to slavery for non-payment of the debts thus contracted, and he adds, upon the authority of Fray Antonio, Monk of St. Jerome, that "the individual happiness of these unfortunate wretches was not certainly increased by the sacrifice of their liberty for a horse or a mule to work for their master's profit. *But yet in the midst of this state of things, brought on by abuses, agriculture and industry were seen to increase.*"†

We beg our readers to bear in mind, that we are here merely discussing the effects of slavery, and not passing our opinions upon the justice or injustice of its origin. We shall now close our remarks upon this head, by the citation of an instance furnished by our own country, of the great advantage of slavery to masters—for among savages the benefit seems to extend to both master and slave. There is an able article in the 66th number of the North American Review, on the "Removal of the Indians," from the pen of Governor Cass, whom we have no hesitation, from the little we have seen of his productions, to pronounce one of the most philosophical and elegant writers in this country. In this article, after pointing out the true condition of the Indian tribes in the neighborhood of the whites, and proving beyond a doubt that they are injured instead of benefitted by their juxtaposition, he admits that the Cherokees constitute a solitary and but a partial exception—that some individuals among them have acquired property, and with it more enlarged and just notions of the value of our institutions. He says that these salutary changes are confined principally to the *half breeds* and their immediate connexions, and are not sufficiently numerous to overturn his reasoning against the practicability of civilizing the Indians. Now what are the causes of this dawn of civilization among the Cherokees? "The causes which have led to this state of things," says Governor Cass, "are too peculiar ever to produce an extensive result. . . . They have been operating for many years, and *among the most prominent of them, has been the introduction of slaves*, by which means, that *unconquerable* aversion to labor, so characteristic of all savage tribes, can be indulged."‡

\* Humboldt's New Spain, vol. 1, p. 71. † Vol. 1, pp. 146, 147.

‡ See North American Review, No. 66, article 3. The Spaniards when they first conquered Mexico and Peru, were, as we have already said, the most cruel and relentless of masters. They are now the most humane and kind, and perhaps the Portuguese come next, who were equally cruel with the Spaniards during the first century after their settlement in the new world.



We hope now we have said enough to convince even the most sceptical, of the powerful effects of slavery, in changing the habits peculiar to the Indian or savage, by converting him into the agriculturist, and changing his slothfulness and aversion to labor into industry and economy, thereby rendering his labor more productive, his means of subsistence more abundant and regular, and his happiness more secure and constant. We cannot close our remarks on the general effects of slavery on the progress of civilization, without pointing out its peculiar influence on that portion of the human race which the civilized nations of modern times so much delight to honor and to cherish—the *fair sex*.

3d. *Influence of Slavery on the condition of the female sex.*—The bare name of this interesting half of the human family, is well calculated to awaken in the breast of the generous, the feeling of tenderness and kindness. The wrongs and sufferings of meek, quiet, forbearing woman, awaken the generous sympathy of every noble heart. Man never suffers without murmuring, and never relinquishes his rights without a struggle. It is not always so with woman: her physical weakness incapacitates her for the combat: her sexual organization, and the part which she takes in bringing forth and nurturing the rising generation, render her necessarily domestic in her habits, and timid and patient in her sufferings. If man choose to exercise his power against woman, she is sure to fall an easy prey to his oppression. Hence, we may always consider her progressing elevation in society, as a mark of advancing civilization, and more particularly of the augmentation of disinterested and generous *virtue*. The lot of women among savages has always been found to be painful and degrading. Doctor Robertson says that in America their condition “is so peculiarly grievous, and their depression so complete, that servitude is a name too mild to describe their wretched state. A wife among most tribes is no better than a beast of burthen, destined to every office of labor and fatigue. While the men loiter out the day in sloth, or spend it in amusement, the women are condemned to excessive toil. Tasks are imposed on them without pity, and services are received without complacence or gratitude. Every circumstance reminds women of this mortifying inferiority. They must approach their lords with reverence. They must regard them as more exalted beings and are not permitted to eat in their presence. There are districts in America where this dominion is so grievous, and so sensibly felt, that some women in a wild emotion of maternal tenderness, have destroyed their female children in their infancy, in order to deliver them from that intolerable bondage to which they knew they were doomed.”\*

This harrowing description of woman’s servitude and sufferings among the Aborigenes of America, is applicable to all savage nations. In the Islands of Andaman, in Van Diemen’s Land, in New

\* Robertson’s America, vol. 1, p. 176.

Zealand\* and New Holland, the lot of woman is the same. The females carry on their heads and bodies, the traces of the superiority of the males. Mr. Collins says of the women of N. S. Wales, "Their condition is so wretched, that I have often, on seeing a female child borne on its mother's shoulders, anticipated the miseries to which it was born, and thought it would be mercy to destroy it." And thus is it, that the most important of all connexions, the marriage tie, is perverted to the production of the degradation and misery of the one sex, and the arrogant assumption and unfeeling cruelty of the other. But the evil stops not with the sufferings of woman—her prolificness is in a measure destroyed." Unaided by the male in the rearing of her children, and being forced to bear them on her shoulders when the huntsmen are roaming through the forest, many of their offspring must die, from the vicissitudes to which they are subjected at so tender an age. Moreover "among wandering tribes," says Dr. Robertson, "the mother cannot attempt to rear a second child until the first has attained such a degree of vigour as to be in some measure independent of her care." . . . "When twins are born one of them is commonly abandoned, because the mother is not equal to the task of rearing both. When a mother dies while she is nursing a child, all hope of preserving its life fails, and it is buried together with her in the same grave."†

It is not necessary that we should continue farther this shocking picture, but let us proceed at once to inquire if the institution of slavery is not calculated to relieve the sufferings and wrongs of injured woman, and elevate her in the scale of existence? Slavery we have just seen changes the hunting into the shepherd and agricultural states—gives rise to augmented productions, and consequently furnishes more abundant supplies for man: the labor of the slave thus becomes a substitute for that of the woman: man no longer wanders through the forest in quest of gain; and woman, consequently, is relieved from following on his track, under the enervating and harassing burthen of her children: She is now surrounded by her domestics, and the abundance of their labor lightens the toil and hardships of the whole family; she ceases to be a mere "*beast of burthen*"—becomes the cheering and animating centre of the family circle—time is afforded for reflection and the cultivation of all those mild and fascinating virtues, which throw a charm and delight around our homes and firesides, and calm and tranquillize the harsher tempers and more restless propensities of the male: Man too, relieved from that endless disquietude about subsistence for the morrow—relieved of the toil of wandering over the forest—more amply provided for by the productions of the soil—finds his habits changed, his temper moderated, his kindness and benevolence increased; he loses that savage and brutal feeling which he had be-

\* In New Zealand agriculture has worked a most wonderful change in the lot of woman. She is now more respected and loved.—[See *Library of Entertaining Knowledge*, vol. 5, *New Zealanders*.]

† Robertson's *America*, vol. 1, p. 177.



fore indulged towards all his unfortunate dependents; and consequently even the slave, in the agricultural, is happier than the free man in the hunting state.

In the very first remove from the most savage state, we behold the marked effects of slavery on the condition of woman—we find her at once elevated, clothed with all her charms, mingling with and directing the society to which she belongs, no longer the slave, but the equal and the idol of man. The Greeks and Trojans, at the siege of Troy, were in this state, and some of the most interesting and beautiful passages in the *Iliad* relate to scenes of social intercourse and conjugal affection, where woman, unawed and in all the pride of conscious equality, bears a most conspicuous part.—Thus, Helen and Andromache, are frequently represented as appearing in company with the Trojan chiefs, and mingling freely in conversation with them. Attended only by one or two maid servants, they walk through the streets of Troy, as business or fancy directs: even the prudent Penelope, persecuted as she is by her suitors, does not scruple occasionally to appear among them; and scarcely more reserve seems to be imposed on virgins than married women. Mitford, has well observed, that “Homer’s elegant eulogiums and Hesiod’s severe sarcasm, equally prove women to have been in their days important members of society. The character of Penelope in the *Odyssey*, is the completest panegyric on the sex that ever was composed; and no language can give a more elegant or more highly coloured picture of conjugal affection, than is displayed in the conversations of Hector and Andromache, in the 6th book of the *Iliad*.”\*

The Teutonic races who inhabited the mountains and fastnesses of Germany were similarly situated to the Greeks, and even before they left their homes to move down upon the Roman Empire, they were no more distinguished by their deeds in arms, than for devotion and attention to the weaker sex: So much were they characterized by this elevation of the female sex, that Gilbert Stuart does not hesitate to trace the institution of chivalry, whose origin has never yet been satisfactorily illustrated, to the German manners.†

Again—if we descend to modern times, we see much the largest portion of Africa existing in this second stage of civilization, and consequently we find woman in an infinitely better condition, than we any where find her among the Aborigines on the American continent. And thus is it a most singular and curious fact, that woman, whose sympathies are ever alive to the distresses of others, whose heart is filled with benevolence and philanthropy, and whose fine feelings unchecked by considerations of interest or calculations of remote consequences, have ever prompted to embrace with eagerness even the wildest and most destructive schemes of emancipation, has been in a most peculiar and eminent degree indebted to

\* See Mitford’s *Greece*, vol. 1, pp. 166, 167, Boston Edition.

† See Stuart’s *View of Society*, particularly book 1, chap. 2, sec. 4 and 5.

slavery for that very elevation in society which first raised her to an equality with man. We will not stop here to investigate the advantages resulting from the ameliorated condition of woman: her immense influence on the destiny of our race is acknowledged by all: upon her must ever devolve in a peculiar degree the duty of rearing into manhood a creature in its infancy, the frailest and feeblest which heaven has made—of forming the plastic mind—of training the ignorance and imbecility of infancy, into virtue and efficiency. “There is perhaps no moral power the magnitude of which swells so far beyond the grasp of calculation as the influence of the female character on the virtues and happiness of mankind: it is so searching, so versatile, so multifarious and so universal: it turns on us like the eye of a beautiful portrait wherever we take our position: it bears upon us in such an infinite variety of points, on our instincts, our passions, our vanity, our tastes and our necessities; above all on the first impressions of education and the associations of infancy.” The *role* which woman should act in the great drama of life is truly an important and an indispensable one—it must and will be acted, and that too, either for our weal or woe: All must wish then that she should be guided by virtue, intelligence and the purest affection—which can only be secured by elevating, honouring and loving *her* in whose career we feel so deep an interest.

We have thus traced out the origin and progress of slavery, and pointed out its effects in promoting the civilization of mankind. We should next proceed to an investigation of those causes of a general character which have a tendency in the progress of society gradually to remove and extinguish slavery, but these we shall have such frequent opportunities of noticing in the sequel, while discussing various schemes of abolition that have been proposed, that we have determined to omit their separate consideration.

We shall now proceed to inquire into the origin of slavery in the United States.

It is well known to all at all conversant with the history of our country, that negro slavery in the United States, the West India Islands and South America, was originally derived from the African slave trade, by which the African negro was torn from his home, and transferred to the Western hemisphere, to live out his days in bondage; we shall briefly advert—First, to the origin and progress of this trade—Secondly, to its effects on Africa; and lastly, to the consideration of the part which the United States have taken in this traffic, and the share of responsibility which must be laid at their door.

311 1st. *Origin and Progress of the African Slave Trade.*—This trade, which seems so shocking to the feelings of mankind, dates its origin as far back as to the year 1442: Antony Gonzales, a Portuguese mariner, while exploring the coast of Africa in 1440, seized some Moors near *Cape Bojador*, and was subsequently forced by his king, the celebrated Prince Henry of Portugal, to carry them back to Africa: he carried them to *Rio del Oro*, and receiv-



ed from the Moors in exchange, *ten blacks* and a quantity of gold dust, with which he returned to Lisbon, and this, which occurred in 1442, was the simple beginning of that extensive trade in human flesh, which has given so singular an aspect to the texture of our population, and which has and will continue to influence the character and destiny of the greatest portion of the inhabitants of the two Americas.”

“The success of Gonzales, not only awakened the admiration, but stimulated the avarice of his countrymen; who, in the course of a few succeeding years, fitted out no less than thirty-seven ships, in the pursuit of the same gainful traffic.” “So early as the year 1502, the Spaniards began to employ a few negroes in the mines of Hispaniola, and in the year 1517 the Emperor, Charles the V., granted a patent to certain persons for the exclusive supply of 4000 negroes annually, to the Islands of Hispaniola, Cuba, Jamaica and Puerto Rico.”\*

African slaves were first imported into this country in 1620, more than a century after their introduction in the West Indies.—It seems, that in the year 1620, the trade to Virginia was thrown open to all nations, and a Dutch vessel availing itself of the commercial liberty which prevailed, brought into James River twenty Africans, who were immediately purchased as slaves; “and as that hardy race,” says Robertson, “was found more capable of enduring fatigue under a sultry climate than Europeans, their number has been increased by continual importations.”†—Slavery was thus introduced into the new world, and its fertile soil and extensive territory, its sparse population and warm climate so congenial to the African constitution, soon gave a powerful stimulus to the trade, and drew towards it the mercantile enterprise of every commercial nation of Europe. England being the most commercial of European nations, naturally engrossed a large portion of the trade; Bryan Edwards says, that from the year 1680 to 1786, there were imported into the British possessions alone 2,130,000 slaves—making an average annual importation of more than 20,000.

The annual importation into the two Americas from all quarters, has frequently transcended 100,000! But our limits will not allow us to enter more fully into this subject; and therefore, we must content ourselves by calling the attention of the reader to the 9th section of *Walsh's Appeal* on the subject of negro slavery and the slave trade, in which he has brought together all the information upon this subject up to the time at which he wrote (1819).

We will now proceed to consider 2nd—*The effects of the Slave Trade on the condition of Africa*—and first, will briefly advert to the supposed advantages. It is well known that almost the whole of Africa exists in a barbarous state—only one or two removes above the Indian of America. At the commencement of the slave trade,

\* See Bryant Edwards' *West Indies*, vol. 2d, page 233, and the sequel.

† See upon this subject 2d chapter of the first volume of Marshall's *Life of Washington* and Robertson's *Virginia*.

slavery as we have already seen, was established throughout Africa, and had led on to great mitigation of the cruel practices of war ;— but still in consequence of the limited demand for slaves under their very rude system of agriculture, the prisoner of war was frequently put to death.

So soon however as the slave trade was established, great care was taken in the preservation of the lives of prisoners, in consequence of the great demand for them occasioned by the slave traffic, so that although an extension has been given to the system of slavery, many lives are supposed to have been saved by it.

Again, it has been contended, that the slave trade by giving a value to the African negro which would not otherwise have been attached to him, has produced much more mildness and kindness, in the treatment of slaves in Africa, that the utmost care is now taken in the rearing of children, and consequently that although Africa has lost many of her inhabitants from this cause, yet a stimulus has thereby been given to population, which has in some measure made up the loss.

“ Africa,” says Malthus, “ has been at all times the principal mart of slaves. The drains of its population in this way have been great and constant, particularly since their introduction into the European colonies; but perhaps, as Doctor Franklin observes, it would be difficult to find the gap that has been made by a hundred years exportation of negroes, which has blackened half America.”\* Lastly, it has been urged and with great apparent justness, that the slave trade has contributed greatly to the civilization of a large portion of the African population,—that by transportation to the Western world, they have been placed in contact with the civilized white, and have been greatly benefitted by the change; that the system of slavery throughout our continent and the Islands, is much less cruel than in Africa,—that there no where prevails in America, the horrid practice of sacrificing the slave on the death of his master, in order that he may be well attended in another world—a practice which all travellers in Africa assert to be extremely common in many nations ;—and finally, that the climate of our temperate and torrid zones, is much more suitable to the African constitution, than even their own climate ; and consequently, that the physical condition of the race has greatly improved by the transplantation.

There is certainly much truth in the above assertions ; but still we cannot agree that the advantages to Africa from the slave trade, have preponderated over the disadvantages. Although wars have been made more mild by the trade, yet they have been made much more frequent: an additional and powerful motive for strife has been furnished. Countries have been overrun, and cities pillaged, mainly with a view of procuring slaves for the slave dealer. Brougham likens the operation of the slave trade in this respect, to the effect

\* See Malthus on Population, vol. 1, page 179, Georgetown Edition.



which the different menageries in the world and the consequent demand for wild beasts, have produced on the inferior animals of Africa. They are now taken alive, instead of being killed as formerly; but they are certainly more hunted and more harassed than if no foreign demand existed for them. The unsettled state of Africa, caused by the slave trade, is most undoubtedly unfavorable to the progress of civilization in that extensive region. In proof of the fatal effects of the slave trade on the peace, order and civilization of Africa, Mr. Wilberforce asserted, and his assertion is upheld by the statements of all travellers who have penetrated far into the interior, that while in every region the sea coast and the banks of navigable rivers, those districts which from their situation had most intercourse with civilized nations, were found to be most civilized and cultivated, the effects of the slave trade had been such in Africa, that those parts of the coast which had been the seats of the longest and closest intercourse with European nations in carrying on a flourishing slave trade, were far inferior in civilization and knowledge to many tracts of the interior country, where the face of the white man had never been seen; and thus has the slave trade been able to reverse the ordinary effects of Christianity and Mahomedanism, and to cause the latter to be the instructor and enlightener of mankind, while the former left them under the undisturbed or rather increased influence of all their native superstitions.\*

Again; the condition of the negro during what is called the *middle passage*, is allowed by all to be wretched in the extreme. The slave traders are too often tempted to take on board more slaves than can be conveniently carried, they are then stored away in much too narrow space, and left to all the horrors and privations incident to a voyage through tropical seas. The Edinburgh Review asserts, that about seventeen in a hundred died generally during the passage, and about thirty-three afterwards in the seasoning—making the loss of the negroes exported, rise to the frightful amount of 50 per cent. It has been further asserted, that the treatment of the negroes after importation has been generally so cruel, as that the population has not by its procreative energies kept up its numbers in any of the West-India Islands—that it has been cheaper for the West Indian to *work out* his negroes, and trust to the slave trade for a supply, than to raise them in the Islands where provisions are so dear. We believe the accounts of the ill treatment of slaves in the West-Indies have been greatly exaggerated, and have no doubt that their condition has generally been better than in Africa; but still it is true that breeding has been discouraged generally where the slave trade was in full operation; and children not being allowed full attention from the mother, have too frequently died from the want of care. And this is most probably a principal reason of the

\*It is proper to state here, that Parke ascribes the superior condition of the interior districts of Africa, principally to a more healthy climate.

slow increase of the slaves in the West-Indies by procreation.\* Upon the whole then, we must come to the conclusion that the slave trade has been disadvantageous to Africa, has caused a violation of the principles of humanity, and given rise to much suffering and to considerable destruction of human life.† Judging by its effects, we must condemn it, and consequently agree that slavery in our hemisphere was based upon injustice in the first instance.

But we believe that there are many circumstances of an alleviating character, which form at least a strong apology for the slave trade;—thus: slavery exists throughout the whole of Africa; the slave must necessarily be looked upon in the light of property, and subject to bargain, sale and removal, as all kinds of moveable property are. The *Adscripti Glebæ*, or slaves attached to the soil, and not suffered to be removed, fare the worst. When they multiply too greatly for the products of the soil on which they are situated, their subsistence is scanty and their condition is miserable. When not in proportion to the extent of the soil, then they are sure to be overworked as there is a deficiency of labor. It is certainly best therefore if slavery exists at all, that buying and selling should be allowed, and upon this principle the *middle passage* certainly constitutes the greatest objection to the slave trade, when those alone are imported who were slaves in Africa.

But again; it is extremely difficult in all questions of morality, to say how far ignorance, conscientious opinions and concomitant circumstances, may atone for acts extremely hurtful and improper in themselves; we all agree that these produce great modifications. The bigot who burns his religious enemy at the stake, and conscientiously believes he has done his God a service, and the North American Indian who torments with every refinement of cruelty the prisoner who has unfortunately fallen into his hands, and believes that the Great Spirit applauds him, and that the blood of his fathers calls for it, surely do not commit the same amount of sin as the perfectly enlightened statesman, who should do the same things from policy, *knowing them to be wrong*. In like manner, the slave trade at its origin, can lay claim to the same sort of apology, from the condition of the world when it arose, and the peculiar circumstances which generated it. Slavery was then common throughout almost every country of Europe.

Indeed the slaves under the appellation of *main mortables*‡ in

\* Another cause of the difficulty of keeping up the slave population of the West Indies, is the great disproportion between the sexes among those imported,—the males being greatly more numerous than the females.

† We do not by any means wish to be understood as contending that negro slavery in our hemisphere, has lessened the number of negroes throughout the world. On the contrary, there is nothing more true, than that the number has greatly increased by it. We only allude to the destruction of life in the *Middle Passage*, and the *Seasoning*.

‡ It is a singular fact, that the slaves belonging to the Church, were the last liberated—a striking illustration of the feeble effects of Religion and Philanthropy, when arrayed against interest.



France, were never liberated until the revolution in 1789. The public law of Europe too, justified the killing or enslaving of the prisoner at the option of the captor. Under these circumstances, we are not to wonder that the slave trade, so far from exciting the horrors of mankind, as now, actually commanded the admiration of Europe. Gonzales, we have just seen, during the reign of the celebrated Prince Henry, in 1442, brought the first negro slaves into Lisbon, and the deed excited the admiration of all; again three years afterwards, Dinis Fernandez, a citizen of Lisbon and an Esquire to the King Don John, captured four negroes on the coast of Africa and brought them into Lisbon; and the Portuguese historian Barras, "eulogizes Dinis," says Walsh, in his notices of Brazil, "that he did not stop at the time, to make forays into the country, and capture more slaves on his own account, but brought those he had caught back to his master, who was *mightily pleased*, not only with the discoveries he had made but with the people he had carried with him, which had not been delivered from the hands of the Moors like the other negroes, which had up to that time come into the kingdom, but had been *caught* on their own soil."

The famous Bartholomew de las Casas, bishop of Chiapi, who is said to have been the first to recommend the importation of Africans into the New World, was a man of the mildest and most philanthropic temper, yet he never doubted all the right to enslave Africans, though he was the zealous advocate and protector of the Indian. "While he contended," says Robertson, "for the liberty of people born in one quarter of the globe, he labored to enslave the inhabitants of another region; and in the warmth of his zeal to save the Americans from the yoke, pronounced it to be lawful and expedient to impose one *still heavier* upon the Africans."\*

We have already seen that Charles the 5th, granted a commission to a company to supply his American possessions with 4000 slaves per annum. Ferdinand and Isabella likewise had permitted the trade before him.

John Hawkins was the first Englishman who embarked in the trade, and he seems by his daring and enterprise in the business to have greatly pleased his sovereign Queen Elizabeth, who so far from disgracing him conferred on him the honors of knighthood, and made him treasurer of the navy.† Elizabeth, James I., Charles I. and II., were all in the habit of chartering companies to carry on the trade. No scruples of conscience seem ever to have disturbed the quiet of these royal personages or of the agents whom they employed. The last Charter Company was called the Royal African Company, and had among the subscribers the King (Charles II.), the Duke of York, his brother, and many other persons of high rank and quality.‡ In fact women, the most virtuous and humane, were often subscribers to this kind of stock, and seem

\* Robertson's America.

† See Edward's West Indies, vol. 2, p. 242.

‡ Edward's West Indies, vol. 2, pp. 247—8.

never to have reflected upon the injustice and iniquity of the traffic, which has so long scandalized civilized Europe. It would indeed be a most difficult question in casuistry, to determine the amount of sin and wickedness committed by the various governments of Europe, in sanctioning a trade which the condition of Europe, Africa and America and all the habits and practices of the day seemed so completely to justify.

We shall now proceed, 3rdly, to the consideration of the share of responsibility which attaches to the United States in the commission of the original sin by which slavery was first introduced into this country.—The colonies, being under the control and guidance of the mother country, were of course responsible for no commercial acts and regulations in which they had no share whatever. The slave trade on the part of Great Britain, commenced during the reign of Elizabeth, who personally took a share in it. *The colonies did not then exist.* It was encouraged in the successive reigns of Charles I. and II., and James II.; and William the III., outdid them all:—With Lord Somers for his minister, he declared the slave trade to be *highly beneficial to the nation.* The colonies all this time took no share in it themselves, *merely purchasing* what the British merchants brought them, and doing therein what the British government invited them to do, by every means in their power. And now let us see, what it was, that first marked it with disapprobation, and sought to confine it within narrower bounds. The colonies began in 1760. South Carolina, a British colony, passed an act to prohibit further importation,—but Great Britain rejected this act with indignation, and declared that the slave trade *was beneficial and necessary to the mother country.* The governors of the colonies had positive orders to sanction no law enacted against the slave trade. In Jamaica, in the year 1765, an attempt was made to abolish the trade to that Island. The governor declared that his instructions would never allow him to sign the bill. It was tried again in the same Island in 1774, but Great Britain by the Earl of Dartmouth, president of the board, answered—“*We cannot allow the colonies to check or discourage in any degree a traffic so beneficial to the nation.*” The above historical account we have taken from a *British writer* (Barham’s Observations on the Abolition of Negro Slavery).

Among all the colonies, none seem to have been more eager and more pressing for the abolition of the slave trade than Virginia—in which State the citizens, wonderful to relate, seem now more remorseful and conscience stricken than any where else in the whole Southern country. Judge Tucker, in his Notes on Blackstone’s Commentaries, has collected a list of no less than twenty-three acts imposing duties on slaves, which occur in the compilations of Virginia laws. The first, bears date as far back as 1699; and the real design of all of them, was not revenue, but the repression of the importation. In 1772, most of the duties previously imposed, were re-enacted, and the Assembly transmitted at the same time a



// petition to the throne, which, as Mr. Walsh most justly observes, speaks almost all that could be desired, for the *confusion* of our slanderers. The following are extracts: "We are encouraged to look up to the throne and implore your majesty's paternal assistance in averting a calamity of a most alarming nature." "The importation of slaves into the colonies from the coast of Africa, hath long been considered a trade of *great inhumanity*, and under its present encouragement, we have too much reason to fear, will endanger the very existence of your majesty's American Dominions."

// "Deeply impressed with these sentiments, we most humbly beseech your majesty to *remove all those restraints on your majesty's governors of this colony*, which inhibit their assenting to such laws as might check so very pernicious a commerce." The petition of course was unavailing. The very first Assembly which met in Virginia, after the adoption of her constitution, prohibited the traffic; and the "*inhuman use of the royal negative*" against the action of the colony upon this subject, is enumerated in the first clause of the first Virginia Constitution, as a reason of the separation from the mother country.

The action of the United States government likewise upon the slave trade, seems to have been as speedy and efficient as could possibly have been expected from a government necessarily placed under great restraint and limitation.

// Not being able to enter into details, we quote with great pleasure the following remark from Mr. Walsh, who with most indefatigable zeal and industry, has collected all the important information on the subject of the slave trade, and furnished the world with a complete and triumphant vindication of the United States, against the taunts and illiberal insinuations of British writers.— "It is seen," says Mr. Walsh, "by the foregoing abstract, that Federal America interdicted the trade from her ports, thirteen years before Great Britain; that she made it punishable as a crime seven years before; that she fixed four years sooner the period for non-importation—which period was earlier than that determined upon by Great Britain for her colonies. We ought not to overlook the circumstance, that these measures were taken by a Legislature composed in considerable part of the *representatives of slave holding states*; *slave holders* themselves, in whom of course according to the Edinburgh Review "conscience had suspended its functions" and "justice, gentleness and pity were extinguished."—In truth, the *representatives from our Southern States have been foremost in testifying their abhorrence of the traffic*.\* Are we not then fully justified, from a historical review of the part which the colonists took, before and after their independence, in relation to the slave trade, in asserting that slavery was forced upon them, and the slave trade continued contrary to their wishes. If ever nation

\* See Walsh's Appeal 2nd Edition, page 323.

stood justified before Heaven, in regard to an evil, which had become interwoven with her social system, is not that country ours? Are not our hands unpolluted with the original sin, and did we not wash them clean of the contagion the moment our independent existence was established? Where is the stain that rests upon our escutcheon? There is none! United America has done her duty, and Virginia has the honor of taking the lead in the abolition of the slave trade, whose example has been so tardily and reluctantly followed by the civilized nations of Europe. Virginia, therefore, *especially*, has nothing to reproach herself with—"the still small voice of conscience" can never disturb her quiet. She truly stands upon this subject like the Chevalier Bayard—"sans peur et sans reproche."

We have now finished the first principal division of our subject—in which we have treated, we hope satisfactorily, of the origin of slavery in ancient and modern times, and have closed with a consideration of the slave trade, by which slavery has been introduced into the United States. We hope that this preliminary discussion will not be considered inappropriate to our main subject.—We have considered it indispensably necessary, to point out the true sources of slavery and the principles upon which it rests, in order that we might appreciate fully the value of those arguments based upon the principles that "all men are born equal"—that "slavery in the abstract is wrong," that "the slave has a natural right to regain his liberty," &c. &c.—all of which doctrines were most pompously and ostentatiously put forth by some of the abolitionists in the Virginia Legislature. No set of legislators ever have, or ever can legislate upon purely abstract principles, entirely independent of circumstances, without the ruin of the body politic which should have the misfortune to be under the guidance of such quackery. Well and philosophically has Burke remarked, that circumstances give in reality to every political principle its distinguishing colour and discriminating effect. The circumstances are what render every political scheme beneficial or noxious to mankind, and we cannot stand forward and give praise or blame to any thing which relates to human actions and human concerns, on a simple view of the object, as it stands stript of every relation in all the nakedness and solitude of metaphysical abstraction. The historical view which we have given of the origin and progress of slavery, shews most conclusively that something else is requisite to convert slavery into freedom, than the mere enunciation of abstract truths, divested of all adventitious circumstances and relations.—We shall now then proceed to the second great division of our subject, and inquire seriously and fairly, whether there be any means by which we may get rid of slavery.



## II. Plans for the Abolition of Negro Slavery.

Under this head we will examine, first, those schemes which propose abolition and deportation, and secondly, those which contemplate emancipation without deportation.

1st. *Emancipation and Deportation.*—In the late Virginia Legislature, where the subject of slavery underwent the most thorough discussion, all seemed to be perfectly agreed in the necessity of removal in case of emancipation. Several members from the lower counties, which are deeply interested in this question, seemed to be sanguine in their anticipations of the final success of some project of emancipation and deportation to Africa, the original home of the negro. "Let us translate them," said one of the most respected and able members of the Legislature, (Gen. Broadnax,) "to those realms from which, in evil times, under inauspicious influences, their fathers were unfortunately abducted.—Mr. Speaker, the idea of restoring these people to the region in which nature had planted them, and to whose climate she had fitted their constitutions—the idea of benefitting not only our condition and their condition by the removal, but making them the means of carrying back to a great continent, lost in the profoundest depths of savage barbarity, unconscious of the existence even of the God who created them, not only the arts and comforts and multiplied advantages of civilized life, but what is of more value than all, a knowledge of true religion—intelligence of a Redeemer—is one of the grandest and noblest, one of the most expansive and glorious ideas which ever entered into the imagination of man. The conception, whether to the philosopher, the statesman, the philanthropist, or the Christian, of rearing up a colony which is to be the nucleus around which future emigration will center, and open all Africa to civilization and commerce, and science and arts and religion—when Ethiopia shall stretch out her hands, indeed, is one which warms the heart with delight." (*Speech of Gen. Broadnax of Dinwiddie*, pp. 36 and 37.) We fear that this splendid vision, the creation of a brilliant imagination, influenced by the pure feelings of a philanthropic and generous heart, is destined to vanish at the severe touch of analysis. Fortunately for reason and common sense, all these projects of deportation may be subjected to the most rigid and accurate calculations, which are amply sufficient to dispel all doubt, even in the minds of the most sanguine, as to their practicability.

We take it for granted that the right of the owner to his slave is to be respected, and consequently that he is not required to emancipate him, unless his full value is paid by the state. Let us then, keeping this in view, proceed to the very simple calculation of the expense of emancipation and deportation in Virginia. The slaves, by the last census (1830) amounted within a small fraction to 470,000; the average value of each one of these is \$200; consequently the whole aggregate value of the slave population of

Virginia in 1830, was \$94,000,000, and allowing for the increase since, we cannot err far in putting the present value at \$100,000,000. The assessed value of all the houses and lands in the state amounts to \$206,000,000, and these constitute the material items in the wealth of the state, the whole personal property besides bearing but a very small proportion to the value of slaves, lands, and houses. Now, do not these very simple statistics speak volumes upon this subject? It is gravely recommended to the state of Virginia to give up a species of property which constitutes nearly one-third of the wealth of the whole state, and almost one-half of that of Lower Virginia, and with the remaining two-thirds to encounter the additional enormous expense of transportation and colonization on the coast of Africa. But the loss of \$100,000,000 of property is scarcely the half of what Virginia would lose, if the immutable laws of nature could suffer (as fortunately they cannot) this tremendous scheme of colonization to be carried into full effect. Is it not population which makes our lands and houses valuable? Why are lots in Paris and London worth more than the silver dollars which it might take to cover them? Why are lands of equal fertility in England and France worth more than those of our Northern States, and those again worth more than Southern soils, and those in turn worth more than the soils of the distant West? It is the presence or absence of population which alone can explain the fact. It is in truth the slave labor in Virginia which gives value to her soil and her habitations—take away this and you pull down the atlas that upholds the whole system—eject from the state the whole slave population, and we risk nothing in the prediction, that on the day in which it shall be accomplished, the worn soils of Virginia will not bear the paltry price of the government lands in the West, and the Old Dominion will be a “waste howling wilderness,”—“the grass shall be seen growing in the streets, and the foxes peeping from their holes.”

But the favourers of this scheme say they do not contend for the sudden emancipation and deportation of the whole black population;—they would send off only the increase, and thereby keep down the population to its present amount, while the whites increasing at their usual rate would finally become relatively so numerous as to render the presence of the blacks among us for ever afterwards entirely harmless. This scheme, which at first to the unreflecting seems plausible, and much less wild than the project of sending off the whole, is nevertheless impracticable and visionary, as we think a few remarks will prove. It is computed that the annual increase of the slaves and free coloured population of Virginia is about six thousand. Let us first, then, make a calculation of the expense of purchase and transportation. At \$200 each, the six thousand will amount in value to \$1,200,000. At \$30 each, for transportation, which we shall soon see is too little, we have the whole expense of purchase and transportation \$1,380,000, an expense to be annually incurred by Virginia to keep down her black



population to its present amount. And let us ask, is there any one who can seriously argue that Virginia can incur such an annual expense as this for the next twenty-five or fifty years, until the whites have multiplied so greatly upon the blacks, as in the *opinion* of the *alarmists* for ever to quiet the fears of the community? Vain and delusive hope, if any were ever wild enough to entertain it! Poor old Virginia, the leader of the *poverty stricken team*, which have been for years so heavily dragging along under the intolerable burthen of the Federal government, must inevitably be crushed whenever this new weight is imposed on her, in comparison with which federal exactions are light and mild. We should as soon expect the *Chamois*, the hardy rover over Alpine regions, by his unassisted strength to hurl down the snowy mantle which for ages has clothed the lofty summit of Mont Blanc, as that Virginia will be ever able by her own resources to purchase and colonize on the coast of Africa six thousand slaves for any number of years in succession.

But this does not develope to its full extent the monstrous absurdity of this scheme. There is a view of it yet to be taken, which seems not to have struck very forcibly any of the speakers in the Virginia Legislature, but which appears to us of itself perfectly conclusive against this whole project. We have made some efforts to obtain something like an accurate account of the number of negroes every year carried out of Virginia to the south and south-west. We have not been enabled to succeed completely; but from all the information we can obtain, we have no hesitation in saying, that upwards of six thousand are yearly exported to other states. Virginia is in fact a *negro* raising state for other states; she produces enough for her own supply and six thousand for sale. Now, suppose the government of Virginia enters the slave market, resolved to purchase six thousand for emancipation and deportation, is it not evident that it must overbid the southern seeker, and thus take the very slaves who would have gone to the south? The very first operation then of this scheme, provided slaves be treated as property, is to arrest the current which has been hitherto flowing to the south, and to accumulate the evil in the state. As sure as the moon in her transit over the meridian arrests the current which is gliding to the ocean, so sure will the action of the Virginia government, in an attempt to emancipate and send off 6000 slaves, stop those who are annually going out of the state; and when 6000 are sent off in any one year, (which we never expect to see) it will be found on investigation that they are those who would have been sent out of the state by the operation of our slave trade, and to the utter astonishment and confusion of our abolitionists, the black population will be found advancing with its usual rapidity—the only operation of the scheme being to substitute our government, *alias ourselves*, as purchasers, instead of the planters of the south. This is a view which every legislator in the state should take. He should beware lest in his zeal for action, this efflux, which is now so salutary to the state, and such an abundant

source of wealth, be suddenly dried up, and all the evils of slavery be increased instead of diminished. If government really could enter with capital and zeal enough into the boundless project, we might even in a few years see the laws of nature reversed, and the tide of slavery flowing from the south in Virginia, to satisfy the philanthropic demand for colonization. The only means which the government could use to prevent the above described effect, would be either arbitrarily to fix the price of slaves below their market value, which would be a clear violation of the right of property, (which we shall presently notice,) or to excite a feeling of insecurity and apprehension as to this kind of property, and thus dispose the owner to part with it at less than its true value:—but surely no statesman would openly avow such an object, although it must be confessed that some of the speakers even who contended that slaves should ever be treated as property, avowed sentiments which were calculated to produce such a result.

It is said, however, that the southern market will at all events be closed against us, and consequently that the preceding argument falls to the ground. To this we answer, that as long as the demand to the south exists, the supply will be furnished in some way or other, if our government do not unwisely tamper with the subject. Bryan Edwards has said, that “an attempt to prevent the introduction of slaves into the West Indies would be like chaining the winds, or giving laws to the ocean.” We may with truth affirm, that an attempt to prevent a circulation of this kind of property through the slave-holding states of our confederacy, would be equally if not more impracticable. But there is a most striking illustration of this now exhibiting before our eyes—the Southampton massacre produced great excitement and apprehension throughout the slave-holding states, and two of them, hitherto the largest purchasers of Virginia slaves, have interdicted their introduction under severe penalties. Many in our state looked forward to an immediate fall in the price of slaves from this cause—and what has been the result? Why, wonderful to relate, Virginia slaves are now higher than they have been for many years past—and this rise in price has no doubt been occasioned by the number of southern purchasers who have visited our state, under the belief that Virginians had been frightened into a determination to get clear of their slaves at all events; “and from an artificial demand in the slave purchasing states, caused by an apprehension on the part of the farmers in those states, that the regular supply of slaves would speedily be discontinued by the operation of their non-impotration regulations;”\* and we are, consequently, at this moment

\* From Louisiana, many of the farmers themselves, have come into our state, for the purpose of purchasing their own slaves, and thereby evading the laws. There are in fact, so many plans which will effectually defeat all these preventive regulations, that we may consider their rigid enforcement, utterly impracticable; and moreover, as the excitement produced by the late insurrection in Virginia, dies away, so will these laws be forgotten and remain as dead letters upon the statute books.



exporting slaves more rapidly, through the operation of the internal slave trade, than for many years past.

Let us now examine a moment into the object proposed to be accomplished by this scheme. It is contended that free labor is infinitely superior to slave labor in every point of view, and therefore that it is highly desirable to exchange the latter for the former, and that this will be gradually accomplished by emancipation and deportation; because the vacuum occasioned by the exportation of the slaves will be filled up by the influx of freemen from the north and other portions of the Union—and thus, for every slave we lose, it is contended we shall receive in exchange a free laborer, much more productive and more moral. If we are not greatly mistaken, this, on analysis, will be found to be a complete specimen of that arithmetical *school boy* reasoning, which has ever proved so deceptive in politics, and so ruinous in its practical consequences; and first, let us see whether any thing will be gained in point of productiveness, by this exchange of slave labor for free, even upon the avowed principles of the abolitionists themselves. The great objections to slave labor, seem to be—First, that it is unproductive, or at least, not as productive as free labor; and Secondly, that it is calculated to repel free labor from the sphere in which it is exercised. This latter effect has been briefly and more ingeniously urged, by a writer in the *Richmond Enquirer* of the 3rd of March 1832, over the signature of “York,” than by any one who is known to us, and we shall consequently introduce an extract from his essay.

“Society, naturally revolves itself,” says this writer, “into three classes. The first comprehends professional men, capitalists and large landed proprietors; the Second, embraces artizans and small proprietors; and the Third, is composed of common laborers. Now we are a society placed in the anomalous predicament of being *totally without a laboring class*; for all our labor is performed by slaves, who constitute no part of that society, and who *quoad* that society, may be regarded as brutes or machines. This circumstance operates directly as a check upon the increase of white population. For, as some intelligence or property is required to enable a man to belong to either of the two first classes above enumerated, (and which I have remarked are the only classes which we have) and as no one with ordinary self-respect, can submit to sink below them, and become outcasts, the immediate tendency of the supernumerary members is to emigration.” We will not for the present, dispute the premises of the very intelligent and graceful writer, from whom we have copied the above extract; we have endeavored throughout this review, to shew that our adversaries are not justified in their conclusions, even if we admit the truth of their premises. Now, what is the conclusion arrived at by our adversaries, from the premises just mentioned? That we must deport our slaves as fast as possible, and leave the vacuum to be filled by free labor. In the first place, then, we say upon

their *own* principles even, they cannot expect free labor to take the place of slave, for every one acknowledges it utterly impossible to send away, at *once*, all our slaves—there is scarcely we presume, a single abolitionist in Virginia, who has ever supposed, that we can send away more than the annual increase. Now, then, we ask, how can any one reasonably expect that the taking away of two or three negroes from a body of one hundred, (and this is a much greater proportion than the abolitionists hope to colonize) can destroy that prejudice against laboring with the blacks, which is represented as preventing the whites from laboring, and as sending them in multitudes to the West. If we are too proud to work in a field with fifty negro men this year, we shall surely be no more disposed to do it next year, because one negro, the increase of the fifty, has been sent to Liberia; and consequently the above reasoning, if it prove any thing, proves that we must prevent our laboring classes (the blacks) from increasing, because whites will not work with them—although the whites will be just as averse to working with them after you have checked their increase as before!

But let us suppose, that by some kind of logical *legerdemain*, it can be proven that free labor will supply the place of slave labor, which is deported to Africa—even then, we think they will fail upon their other great principle, that free labor is better than slave, the truth of which principle for the present, we are willing to allow—and their whole argument fails, for this plain and palpable reason, that free labor by association with slave labor, must inevitably be brought down to its level and even below it,—for the vices of the slave you may correct, by means of your authority over him, but those of the associate free laborer you cannot. Every farmer in Virginia, can testify to the truth of this assertion. He knows full well, that if he employs a white laborer to work with a black one, even at *job work*, where of course the inducement to labor is greatest—he will not do more than the negro, and perhaps in a majority of cases, he will not do as much. What then might we expect of him, if he should enter the field with fifty fold his number of blacks, to work along with them regularly through the four seasons of the year? We hazard little in saying, he would be a more unproductive laborer than the black, for he would soon have all his idle propensities, without being subjected to the same salutary restraint.

It is a well known general fact, to all close observers of mankind, that if two different grades of labor as to productiveness be associated together in the same occupation, the higher has a tendency to descend to the level of the lower. Schmalz in his *Political Economy* says, that the indolence and carelessness of the serfs in the north of Europe, corrupt the free laborers who come into *contact* with them. Jones, in his volume on Rents, says, “a new road is at this time (1831) making, which is to connect Hamburg and the Elbe with Berlin; it passes over the sterile sands, of which so much of the north of Germany consists, and the materials for it are sup-



plied by those isolated blocks of granite, of which the presence on the surface of those sands forms a notorious geological puzzle. These blocks, transported to the line of road, are broken to the proper size by workmen, some of whom are Prussian free laborers, others Leibeigeners of the Mecklenburg territory, through a part of which the road passes. They are paid a stipulated sum for breaking a certain quantity, and all are paid alike. Yet the Leibeigeners could not at first be prevailed upon to break more than one third of the quantity which formed the ordinary task of the Prussians. The men were *mixed*, in the hope that the example and the gains of the more industrious, would animate the sluggish. Now mark the result. A contrary effect followed; the Leibeigeners *did not improve*, but the exertions of the other laborers *sensibly slackened*, and at the time my informant (the English Engineer who superintended the work,) was speaking to me, the men were again at work in *separate* gangs carefully kept asunder.\* And thus do we find, by an investigation of this subject, that if we should introduce, by any means, free labor in the stead of slave labor deported to Africa, that it will be certain to deteriorate by association with slave labor, until it sinks down to and even below its level. So far, we have admitted the possibility of exchanging slave for free labor, and have endeavored to prove, upon the principles of the abolitionists, that nothing would be gained by it. We will now endeavor to prove, and we think we can do it incontrovertibly, that the scheme of abolition and deportation will not and cannot possibly effect this exchange of slave labor for free, even if it were desirable. And in order that we may examine the project fully in this point of view, we will endeavor—first, to trace out its operation on the slave population, and then on the white.

Since the publication of the celebrated work of Dr. Malthus on the “principle of population,” the knowledge of the causes which affect its condition and increase, is much more widely diffused. It is now well known to every student of political economy, that in the wide range of legislation, there is nothing more dangerous than too much tampering with the elastic and powerful *spring* of population.

The energies of government are for the most part feeble or impotent when arrayed against its action. It is this procreative power of the human species, either exerted or dormant, which so frequently brushes away *in reality* the visionary fabrics of the philanthropists, and mars the cherished plots and schemes of statesmen. Euler has endeavored to prove, by some calculations, that the human species, under the most favorable circumstances, is capable of doubling itself once in twelve years. In our Western country, the progress of population has, in many extensive districts, been so rapid as to show, in our opinion most conclusively, that it is ca-

\* See Jones' Political Economy, vol. 1, pp. 51, 52—London Edition.

pable of doubling itself once in fifteen years without the aid of immigration. The whole of our population, since the independence of the United States, has shown itself fully capable of duplication in periods of twenty-five years, without the accession from abroad.\* In some portions of our country the population is stationary, in others but very slowly advancing. We will assume then for the two extremes in our country, the stationary condition on the one side, and such increase on the other as to give rise to a duplication every fifteen years. Now as throughout the whole range comprehended between these extremes, population is capable of exerting various degrees of energy, it is very evident that the statesman who wishes to increase or diminish population, must look cautiously to the effect of his measures on its spring, and see how this will be acted on. If for example his object be to lessen the number of a slowly increasing population, he must be convinced that his plan does not stimulate the procreative energies of society to produce more than he is capable of taking away; or if his object be to increase the numbers, take heed lest this project deaden and paralyze the source of increase so much as to more than counterbalance any effort of his. Now looking at the texture of the Virginia population, the desideratum is to diminish the blacks and increase the whites. Let us see how the scheme of emancipation and deportation will act. We have already shown that the first operation of the plan, if slave property were rigidly respected and never taken without full compensation, would be to put a stop to the efflux from the state through other channels; but this would not be the only effect. Government entering into the market with individuals, would elevate the price of slaves beyond their natural value, and consequently the raising of them would become an object of primary importance throughout the whole state. We can readily imagine that the price of slaves might become so great that each master would do all in his power to encourage marriage among them—would allow the females almost entire exemption from labor, that they might the better breed and nurse—and would so completely concentrate his efforts upon this object, as to neglect other schemes and less productive sources of wealth. Under these circumstances the prolific African might no doubt be stimulated to press hard upon one of the limits above stated, doubling his numbers in fifteen years; and such is the tendency which our abolition schemes, if ever seriously engaged in, will most undoubtedly produce; they will be certain to stimulate the procreative powers of that very race which they are aiming to diminish; they will enlarge and invigorate the very monster which they are endeavoring to stifle, and realize the beautiful but melancholy fable of Sisyphus, by an eternal renovation of hope and disappointment. If it were possible for Virginia to purchase and send off annually for the

\* The longest period of duplication has been about twenty-three years and seven months, so that the addition of one year and five months will more than compensate for the emigration.



next twenty-five or fifty years, 12,000 slaves, we should have very little hesitation in affirming, that the number of slaves in Virginia would not be at all lessened by the operation, and at the conclusion of the period such habits would be generated among our blacks, that for a long time after the cessation of the drain, population might advance so rapidly as to produce among us all the calamities and miseries of an over crowded people.

We are not now dealing in mere conjecture; there is ample proof of the correctness of these anticipations in the history of our own hemisphere. The West India Islands, as we have before seen, are supplied with slaves more cheaply by the African slave trader than they can raise them, and consequently the black population in the Islands nowhere keeps up its numbers by natural increase. It appears by a statement of Mr. F. Buxton recently published, that the total number of slaves in the British West Indies in 1817, was 730,112. After a lapse of eleven years, in 1828, the numbers were reduced to 678,527, making a loss on the capital of 1817, in the short space of eleven years, of 51,585.\* In the Mauritius in the same space of time, the loss on the capital of 1817 amounting to but 76,774, was 10,767. Even in the Island of Cuba, where the negro slave is treated as humanely as any where on the globe, from 1804 to 1817, the blacks lost 4,461 upon the stock of 1804. "Prior to the annexation of Louisiana to the United States," says Mr. Clay in his Colonization Speech of 1830, "the supply of slaves from Africa was abundant. The price of adults was generally about one hundred dollars, a price less than the cost of raising an infant. Then it was believed that the climate of the province was unfavorable to the rearing of negro children, and comparatively few were raised. After the United States abolished the slave trade, the price of adults rose very considerably—greater attention was consequently bestowed on their children, and now nowhere is the African female more prolific than she is in Louisiana, and the climate of no one of the Southern States is supposed to be more favorable to the rearing of her offspring." For a similar reason now, the slaves in Virginia multiply more rapidly than in most of the Southern States;—the Virginians can raise cheaper than they can buy; in fact it is one of their greatest sources of profit. In many of the other slaveholding States this is not the case, and consequently the same care is not taken to encourage matrimony and the rearing of children.

For a similar reason, in ancient times, few slaves were reared in populous districts and large towns, these being supplied with slaves raised at a distance or taken in war, at a cheaper rate than they could be raised. "The comparison is shocking," says Mr. Hume,

\* Bryan Edwards attributes the decrease of the slaves in the W. Indies principally to the disproportion of the sexes. But in the present instance, we are constrained to attribute it to another cause, for we find of the 730,112 slaves in the sugar islands in 1817, 369,577 were males, and 363,535 females, being very nearly an equal division of the sexes.

"between the management of human beings and that of cattle; but being extremely just when applied to the present subject, it may be proper to trace the consequences of it. At the capital, near all great cities, in all populous rich industrious provinces, few cattle are bred. Provisions, lodging, attendance, labor are there dear, and men find their account better in buying the cattle after they come to a certain age, from the remoter and cheaper countries.—These are consequently the only breeding countries for cattle; and by parity of reason for men too, when the latter are put on the same footing with the former, as to buying and selling. To rear a child in London till he could be serviceable, would cost much dearer than to buy one of the same age from Scotland or Ireland, where he had been bred in a cottage, covered with rags, and fed on oatmeal and potatoes. Those who had slaves therefore (in ancient times) in all the richer and more populous countries, would discourage the pregnancy of the females and either prevent or destroy the birth.\* . . . A perpetual recruit was therefore wanted from the poorer and more desert provinces. . . . All ancient authors tell us that there was a perpetual flux of slaves to Italy from the remoter provinces, particularly Syria, Cilicia,† Cappadocia and the lesser Asia, Thrace and Egypt. Yet the number of people did not increase in Italy."‡ It is thus we see every where that the spring of population accommodates itself to the demand for human beings, and becomes inert or active in proportion to the value of the laborer, and the small or great expense of rearing him.

It was upon this very principle, that Mr. Pitt, in 1791, based the masterly and unanswerable argument contained in his splendid speech on the abolition of the slave trade; in which he proved, upon data furnished by the West India planters themselves, that the moment an end was put to the slave trade, the natural increase of the negroes would commence, and more than keep up their numbers in the Islands.

But our opponents perhaps may be disposed to answer, that this increase of slavery from the stimulus to the black population afforded by the colonization abroad, ought not to be objected to on our own principles, since each slave will be worth two hundred dollars or more. This answer would be correct enough if it were not that the increase of the blacks is effected at our expense both as to wealth and numbers; and to show this, we will now proceed to point out the operation of the scheme under consideration upon the white population. Malthus has clearly shown that population depends on the *means of subsistence*, and will, under ordinary circumstances,

\* Such means as the last mentioned, will never be resorted to by any civilized nation of modern times, either in Europe or America; but others of a less objectionable character most certainly will be, whenever the rearing of slaves entails a great expense on the master.

† "10,000 slaves in a day have often been sold for the use of the Romans at Delos in Cilicia."—*Strabo, Lib. 14.*

‡ See Hume's Essays, Part 2nd, Essay 11th, on Populousness of Ancient Empires.



increase to a level with them. Now by means of subsistence, we must not only comprehend the necessities of life, such as food, clothing, shelter, &c., but likewise such conveniences, comforts, and even luxuries, as the habits of the society may render it essential for all to enjoy. Whatever then has a tendency to destroy the wealth and diminish the aggregate capital of society, has the effect, as long as the *standard of comfort*\* remains the same, to check the progress of the population.

It is sure to discourage matrimony, and cause children to be less carefully attended to, and to be less abundantly supplied. The heavy burthens which have hitherto been imposed on Virginia, through the operation of Federal exactions, together with the *high standard* of comfort prevalent throughout the whole state, (about which we shall by and by make a few observations) have already imposed checks upon the progress of the white population of the state. If not one single individual were to emigrate from the state of Virginia, it would be found, so inert has become the principle of increase in the state, that the population would not advance with the average rapidity of the American people. Now, under these circumstances, an imposition of an additional burthen of 1,380,000 dollars for the purpose of purchase and deportation of slaves, would add so much to the taxes of the citizens—would subtract so much from the capital of the state, and increase so greatly the embarrassments of the whole population, that fewer persons would be enabled to support families, and consequently to get married.—This great tax, added to those we are already suffering under, would weigh like an incubus upon the whole state—it would operate like the blighting hand of Providence that should render our soil barren and our labor unproductive. It would diminish the value of the *fee simple* of Virginia, and not only check the natural increase of population within the commonwealth, but would make every man desirous of quitting the scenes of his home and his infancy, and fleeing from the heavy burthen which would for ever keep him and his children buried in the depths of poverty. His sale of negroes would partly enable him to emigrate; and we have little doubt, that whenever this wild scheme shall be seriously commenced, it will be found that more whites than negroes will be banished by its operation from the state. And there will be this lamentable difference between those who are left behind; a powerful stimulus will be given to the procreative energies of the blacks, while those of the whites will be paralyzed and destroyed. Every emigrant from among the whites will create a *vacuum* not to be supplied—every removal of a black will stimulate to the generation of another.

“Uno avulso non deficit alter.”

The *poverty* stricken master would rejoice in the prolificness of his female slave, but pray Heaven in its kindness to strike with

\* By standard of comfort we mean that amount of necessities, conveniences, and luxuries, which the habits of any people render essential to them.

barrenness his own spouse, lest in the plenitude of his misfortunes, brought on by the wild and Quixotic philanthropy of his government, he might see around him a numerous offspring unprovided for and destined to galling indigence.

It is almost useless to inquire whether this deportation of slaves to Africa would, as some seem most strangely to anticipate, invite the whites of other states into the commonwealth. Who would be disposed to enter a state with worn out soil and a black population mortgaged to the payment of millions *per annum*, for the purpose of emancipation and deportation, when in the West the most luxuriant soils, unencumbered with heavy exactions, could be purchased for the paltry sum of \$1 25 per acre?

Where, then, is that multitude of whites to come from, which the glowing fancy of orators has sketched out as flowing into and filling up the *vacuum* created by the removal of slaves? The fact is—throughout the whole debate in the Virginia Legislature, the speakers seemed to consider the increase of population as a sort of fixed quantity, which would remain the same under the endless change of circumstance, and consequently that every man exported from among the blacks, lessened *pro tanto* exactly the black population, and that the whites, moving on with their usual speed, would fill the void; which certainly was an erroneous supposition, and manifested an almost unpardonable inattention to the wonderful *elasticity* of the powerful spring of population. The removal of inhabitants, accompanied with great loss of productive labor and capital, so far from leaving the residue in a better situation, and disposing them to increase and multiply, produces the directly opposite effect; it deteriorates the condition of society, and deadens the spring of population. It is curious to look to the history of the world, and see how completely this position is sustained by facts. Since the downfall of the Roman Empire, there have been three forced emigrations of very considerable extent, from three of the countries of Europe. The Moors were expelled from Spain, the Protestants from the Netherlands, and the Hugonots from France; each of these expulsions came well nigh ruining the country from which it took place. We are best acquainted with the effects of the expulsion of the Hugonots from France, because it happened nearer to our own times, during the reign of Louis XIV. In this case only 500,000 are supposed to have left France, containing then a population of 20 or 25,000,000 of souls. The energies of this mighty country seemed at once paralyzed by this emigration, her prosperity was instantly arrested, her remaining population lost the vigor which characterized them as long as this *leaven* was among them, and to this day, France has not recovered from the tremendous blow. Her inferiority to England, in industry and all the useful arts, is in a great measure to be traced back to this stupid intolerance of her *great* monarch Louis XIV. The reason why these expulsions were so very injurious to the countries in question, was because the emigrants were the laboring classes of



society, and their banishment consequently dried up the sources of production, and lessened the aggregate wealth and capital of the people. Now these expulsions are *nothing* in comparison with that contemplated by our abolitionists. In France only one in fifty of the population was expelled, and no expense was incurred in the deportation; but in Virginia the proportion to be expelled is much greater, and the expense is to devolve on the government.

When the emigration is accompanied with no loss of capital to the state, and no abstraction of *productive* labor, then the population will not be injuriously affected, but sometimes greatly benefited. In the hunting state, the expulsion of half of the tribe would benefit the remainder in a politico-economical light, because they live on the game of the forest, which becomes more abundant as soon as the consumers diminish. Pastoral nations, for a like reason, are rarely injured by emigration, for they live on cattle, and the cattle live on the spontaneous produce of the earth, and when a colony is sent off, the remainder will generally be benefited, since the consumption is relieved while the production is not diminished. And this satisfactorily explains the difficulty which has so much puzzled historians:—how the North of Europe, which Gibbon, Hume, and Robertson, all maintain was in a pastoral state, and not nearly so thickly settled as at present, should nevertheless have been able for several centuries to furnish those terrible swarms of barbarians, who “gathering fresh darkness and terror” as they rolled on upon the South, at length, with their congregated multitudes, “obscured the sun of Italy, and sunk the Roman world in night.” This example of the barbarians in the North of Europe, sending so many hundreds of thousands of emigrants to the South, is a beautiful illustration of the capacity of population to counteract the effects of emigration in all those cases where the spring of population is not weakened. As soon as new swarms left the country, the means of subsistence were more ample for the residue; the vigor of population soon supplied the deficiency; and then another swarm went forth and relieved again the national *hive*. Our purchase and deportation of slaves would produce a similar effect on our blacks, but it would be entirely at the expense of both the numbers and wealth of the whites, and would be therefore one of the most blighting curses that could scathe the land. Ireland, at present, is suffering heavy afflictions from an overcrowded population; but her government could not relieve her by sending off the paupers, and for the simple reason that it would require an expense on the part of Ireland which would produce as great or even greater abstraction of capital than of unproductive mouths, and would moreover give more vigor to the spring of population. If other nations would incur the expense for her, then perhaps there might be for her a temporary benefit; but in a short time such a stimulus would be given to population, as would counteract all the vain efforts of man, and in the end, leave her in a worse condition than before. We doubt whether

England, France, and Germany, by a steady concentration of all their financial resources upon the deportation and comfortable settlement and support of the superabundant population of Ireland, would, at the expiration of fifty years, be found to have lessened the numbers by one single individual. The effect would merely be, to pledge the resources of these three nations to the support of the Irish population, and to substitute the procreation of Irishmen, for that of Englishmen, Frenchmen, and Germans, and as soon as this support was withdrawn, the very habits which had been generated by it in Ireland, would be its greatest curse. The only effectual means of relieving Ireland, will be to raise the *standard of comfort* in that country, and to arrest the population by the preventive checks which would lessen the marriages. Until this be done in some way or other, Ireland is doomed to suffer the heavy penalty.

We are now prepared to explain how it is that so many negroes have been exported from Africa by the slave trade, while the gap, says Franklin, is almost imperceptible. Gen Broadnax, in his speech, computes the average number now annually sent out from Africa by the operation of the slave trade, to be 100,000; and, he adds, if all this can be effected against so many risks and hazards, and in violation of the laws of God and man, shall it be said that the whole state of Virginia cannot export 6,000 to Africa in a year? Yes, strange as it may seem, this is all true; and the simple reason of the great difference is, that Africa incurs no expense, but on the contrary, generally receives a full equivalent for the deported slave, which augments her means of subsistence, and stimulates the spring of population. The slave trade which takes off 100,000 human beings from Africa for the slave market of the West Indies and South America, has by its operation, quickened the procreative powers of society in Africa to such an extent as not only to keep up her numbers, but to furnish besides 100,000 souls for exportation. Could we suppose it possible for this slave trade to be annihilated at a blow, repugnant and shocking as it is to every feeling of humanity, it would be found that its sudden cessation would plunge the whole of Western Africa for a season into the most dreadful anarchy and appalling distress. It would be found that the habits of the people had been formed to suit the slave trade, and accordingly would be much too favorable to the rapid increase of population without that trade,—prisoners of war would be slaughtered, infants murdered, marriages discouraged, and swarms of redundant citizens sent forth to ravage neighboring countries, and all this would arise from the too rapid increase of population, for the means of subsistence, caused by the sudden stopping of the slave trade. It will be thus seen that the 100,000 annually sent off from Africa, are a source of profit and not of expenditure. Saddle Africa with the whole of this burthen, and we are perfectly sure that the entire resources of that immense continent would not suffice to purchase up, send off, and colonize 5,000 per annum. There is the same



difference between this exportation from Africa, and that proposed by the abolitionists from Virginia, that there is between the agriculturist who sends his produce to a foreign state or country and receives back a full equivalent, and him who is condemned to send his abroad at his own expense, and to distribute it gratuitously. We imagine that no one who was acquainted with the condition of these two farmers would wonder that one should grow wealthy, and the other miserably poor. The 6,000 slaves which Virginia annually sends off to the South are a source of wealth to Virginia; but the 1,000 or 2,000 whites who probably go to the West are a source of poverty; because in the former case we have an equivalent left in the place of the exported slave—in the latter we lose both labor and capital without an equivalent; and precisely such a result in a much more aggravated form, will spring from this mad colonization scheme, should it ever be carried into operation. If the governments of Europe were silly enough to appropriate their resources to the purchase of our slaves, at their full marketable value, for the purpose of deportation, they should, for ought that we could do, have every one that they could buy. An equivalent would thus be left for the deported slave, and however much others might suffer for their folly, we should escape.\*

Against most of the great difficulties attendant on the plan of emancipation above examined, it was impossible for the abolitionists entirely to close their eyes; and it is really curious to pause a moment and examine some of the reflections and schemes by which Virginia was to be reconciled to the plan. We have been told that it would not be necessary to purchase all the slaves sent away—that many would be surrendered by their owners without an equivalent. "There are a number of slave-holders," (said one who has all the lofty feeling and devoted patriotism which have hitherto so proudly characterized Virginia,) "at this very time, I do not speak from vain conjecture, but from what I know from the best information, and this number would continue to increase, who would voluntarily surrender their slaves, if the state would provide the means of colonizing them elsewhere. And there would be again another class, I have already heard of many, while they could not afford to sacrifice the entire value of their slaves, would cheerfully compromise with the state for half of their value." In the first place, we would remark that the gentleman's anticipation would certainly prove delusive—the surrender of a very few slaves would enhance the importance and value of the residue, and make the owner much more reluctant to part with them. Let any farmer in Lower Virginia ask himself how many he can spare from his plantation—and he will be surprised to see how few can be dispensed with. If

\* Perhaps one of the greatest blessings (if it could be reconciled to our conscience) which could be conferred on the southern portion of the Union, would arise from the total abolition of the African slave trade, and the opening the West Indian and South American markets to our slaves. We do not believe that deportation to any other quarter, or in any other way, can ever effect the slightest diminution.

that intelligent gentleman, from the storehouse of his knowledge, would but call up the history of the past, he would see that *mere philanthropy*, with all her splendid boastings, has never yet accomplished one great scheme; he would find the remark of that great judge of human nature, the illustrious author of the *Wealth of Nations*, that no people had the generosity to liberate their slaves until it became their interest to do so, but too true; and the philosophic page of Hume, Robertson, Stuart, and Sismondi, would inform him that the serfs of Europe have been only gradually emancipated through the operation of *self interest* and not *philanthropy*: and we shall soon see that it was fortunate for both parties that this was the cause.

But it is strange indeed that gentlemen have never reflected, that the pecuniary loss to the State, will be precisely the same, whether the negroes be purchased or gratuitously surrendered. In the latter case the burthen is only shifted from the whole State to that portion where the surrender is made—thus if we own \$10,000 worth of this property, and surrender the whole to government, it is evident that we lose the amount of \$10,000; and if the whole of Lower Virginia could at once be induced to give up all of this property, and it could be sent away, the only effect of this generosity and self devotion would be to inflict the *blow of desolation* more exclusively on this portion of the State—the aggregate loss would be the same, the burthen would only be shifted from the whole to a part—the West would dodge the blow, and perhaps every candid citizen of Lower Virginia would confess that he is devoid of that refined incomprehensible patriotism which would call for self immolation on the shrive of folly, and would most conscientiously advise the eastern Virginians never to surrender their slaves to the government without a fair equivalent. Can it be genuine philanthropy to persuade them *alone* to step forward and bear the whole burthen?

Again; some have attempted to evade the difficulties by seizing on the increase of the negroes after a certain time. Thus Mr. Randolph's plan proposed that all born after the year 1840, should be raised by their masters to the age of eighteen for the female and twenty-one for the male, and then hired out, until the neat sum arising therefrom amounted to enough to send them away. Scarcely any one in the legislature—we believe not even the author himself—entirely approved of this plan.\* It is obnoxious to the objections we have just been stating against voluntary surrender. It proposes to saddle the slave-holder with the whole burthen; it infringes directly the rights of property; it converts the fee simple possession of this kind of property into an estate for years; and it only puts off the great sacrifice required of the state to 1840, when most of the evils will occur that have already been described. In the mean time it destroys the value of slaves, and

\* The difficulty of falling upon any definite plan which can for a moment command the approbation of even a few of the most intelligent abolitionists, is an unerring symptom of the difficulty and impracticability of the whole.



with it all landed possessions—checks the productions of the state, imposes (when 1840 arrives) upon the master the intolerable and grievous burthen of raising his young slaves to the ages of eighteen and twenty-one, and then liberating them to be hired out under the superintendence of government (the most miserable of all managers,) until the proceeds arising therefrom shall be sufficient to send them away. If any man at all conversant with political economy should ever anticipate the day when this shall happen, we can only say that his faith is great indeed, enough to remove mountains, and that he has studied in a totally different school from ourselves. Let us ask in the language of one of Virginia's most cherished statesmen, who has stood by and defended with so much zeal and ability the interests of Lower Virginia—and who shone forth one of the brightest stars in that constellation of talent which met together in the Virginia Convention—"Is it supposed that any tyranny can subdue us to the patient endurance of such a state of things? Every prudent slave holder in the slave holding parts of the state, would either migrate with his slaves to some state where his rights in slave property would be secured to him by the laws, or would surrender at once his rights in the parent stock as well as in their future increase, and seek some land where he may enjoy at least the earnings of his own industry. In the first case, the country would be deserted; in the other it would be abandoned to the slaves, to be cultivated under the management of the state. The plan would result in a sacrifice, more probably an abandonment, of our *landed*, as well as the abolition of our *slave* property. Can any thing but force, can any force tame us to wrongs like these."\*

Again; we entirely agree with the assertion of Mr. Brown, one of the ablest and most promising of Virginia's sons, that the ingenuity of man, if exerted for the purpose, could not devise a more efficient mode of producing discontent among our slaves, and thus endangering the peace of the community. There are born annually of this population about 20,000 children. Those which are born before the year 1840 are to be slaves; those which are born after that period are to be free at a certain age. These two classes will be reared together; they will labor together, and commune together. It cannot escape the observation of him who is doomed to servitude, that although of the same colour and born of the same parents, a far different destiny awaits his more fortunate brother—as his thoughts again and again revert to the subject, he begins to regard himself as the victim of injustice. Cheerfulness and contentment will flee from his bosom, and the most harmless and happy creature that lives on earth, will be transformed into a dark designing and desperate rebel. (*Brown's Speech*, pp. 8, 9.)

There are some again who exhaust their ingenuity in devising schemes for taking off the breeding portion of the slaves to Africa,

\* Letters of Appomattox to people of Virginia, 1st Letter, p. 13.

or carrying away the sexes in such disproportions as will in a measure prevent those left behind from breeding. All of these plans merit nothing more than the appellation of *vain juggling legislative conceits*, unworthy of a wise statesman and a moral man. If our slaves are ever to be sent away in any systematic manner, *humanity* demands that they should be carried in families. The voice of the world would condemn Virginia if she sanctioned any plan of deportation by which the male and female, husband and wife, parent and child, were systematically and relentlessly separated. If we are to indulge in this kind of regulating vice, why not cure the ill at once, by following the counsel of Xenophon in his *Economics*, and the practice of old Cato the Censor? Let us keep the male and female separate\* in *Ergastula* or dungeons, if it be necessary, and then one generation will pass away, and the evil will be removed to the heart's content of our humane philanthropists! But all these puerile conceits fall far short of surmounting the great difficulty which, like Memnon, is eternally present and cannot be removed.

"Sedet eternumque sedebit."

There is \$100,000,000 of slave property in the state of Virginia, and it matters but little how you destroy it, whether by the slow process of the cautious *practitioner*, or with the frightful despatch of the self confident *quack*; when it is gone, no matter how, the deed will be done, and Virginia will be a desert.

We shall now proceed to examine briefly the most dangerous of all the wild doctrines advanced by the abolitionists in the Virginia Legislature, and the one which, no doubt, will be finally acted upon, if ever this business of emancipation shall be seriously commenced. *It was contended that property is the creature of civil society, and is subject to its action even to destruction.* But lest we may misrepresent, we will give the language of the gentleman who first boldly and exultingly announced it. "My views are briefly these," said Mr. Faulkner; "they go to the foundation upon which the social edifice rests—property is the creature of civil society.—So long as that property is not dangerous to the good order of society, it may and will be tolerated. But, sir, so soon as it is ascertained to jeopardize the peace, the happiness, the good order, nay the very existence of society, from that moment the right by which they hold their property is gone, society ceases to give its consent, the condition upon which they are permitted to hold it is violated, their right ceases.—Why, sir, it is ever a rule of municipal law, and we use this merely as an illustration of the great principles of society, *sic utere tuo ut aliénium non lædas*. So hold your property as not to injure the property, still less the lives and happiness of your neighbors. And the moment, even in the best regulated communities, there is in practice a departure from this principle, you may abate the nuisance. It may cause loss, but

\* See Hume's Essay on the populousness of Ancient Nations, where he ascribes this practice to Cato and others, to prevent their slaves from breeding.



it is what our black letter gentlemen term *Damnum absque injuria*, a loss for which the law affords no remedy." Now for the application of these principles: "Sir, to contend that *full value* shall be paid for the slaves by the commonwealth, now or at any future period of their emancipation, is to deny all right of action upon this subject whatsoever. It is not within the financial ability of the state to purchase them. We have not the means—the utmost extremity of taxation would fall far short of an adequate treasury. What then shall be done? We must endeavor to ascertain some middle ground of compromise between the rights of the community and the rights of individuals, some scheme which, while it responds to the demands of the people for the extermination of the alarming evil, will not in its operation disconcert the settled institutions of society, or involve the slave holder in pecuniary ruin and embarrassment." (*Faulkner's Speech*, pp. 14, 15, 16.)

To these doctrines we call the serious attention of the whole slave-holding population of our Union, for all alike are concerned. It is time indeed for Achilles to rise from his inglorious repose and buckle on his armor, when the enemy are about to set fire to the fleet. This doctrine, absurd as it may seem in the practical application made by the speaker, will be sure to become the most popular with those abolitionists in Virginia, who have no slave property to sacrifice. It is the remark of Hobbes, that men might easily be brought to deny that "things equal to the same are equal to each other," if their fancied interests were opposed in any way to the admission of this axiom. We find that the highly obnoxious doctrine just spoken of, was not entertained by the gentleman from Berkeley alone, but was urged to an equally offensive extent by Mr. M'Dowell, who is supposed by his friends to have made the most able and eloquent speech in favor of abolition. He says, "when it (property) loses its utility, when it no longer contributes to the personal benefits and wants of its holders in any equal degree with the expense or the risk or the danger of keeping it, much more when it jeopardizes the security of the public;—when this is the case, then the original purpose for which it is authorized is lost, its character of property in the just and beneficial sense of it is gone, and it may be regulated without private injustice, in any manner which the general good of the community, by whose laws it was licensed, may require." (*M'Dowell's Speech*, see *Richmond Whig*, 24th March 1832.) It is thus, if we may borrow the justly indignant language of Mr. Goode's eloquent and forcible speech, that "our property has been compared to a nuisance which the commonwealth may abate at pleasure. A nation of souls to be abated by the mere effort of the will of the general assembly. A nation of free men to hold their property by the precarious tenure of the precarious will of the general assembly!! and to reconcile us to our condition, we are assured by the gentleman from Berkeley, that the general assembly, in the abundance of its liberality, is ready to enter into a compromise, by which we shall be

permitted to hold *our own property twenty eight years!* on condition that we then surrender it absolutely and unconditionally.—Sir, I cannot but admire the frankness with which these gentlemen have treated this subject. They have exhibited themselves in the fulness of their intentions; given us warning of their designs; and we now see in all its nakedness the vanity of all hope of compensation.”—(*Goode's Speech*, p. 29.)

The doctrine of these gentlemen, so far from being true in its application, is not true in theory. The great object of government is the protection of property:—from the days of the patriarchs down to the present time, the great desideratum has been to find out the most efficient mode of protecting property. There is not a government at this moment in Christendom, whose peculiar practical character is not the result of the state of property.

No government can exist which does not conform to the state of property;—it cannot make the latter conform entirely to the government;—an attempt to do it would and ought to revolutionize any state. The great difficulty in forming the government of any country arises almost universally from the state of property, and the necessity of making it conform to that state; and it was the state of property in Virginia which really constituted the whole difficulty in the late convention. There is a right which these gentlemen seem likewise to have had in their minds, which writers on the law of nations call the right of *eminent* or *transcendental domain*; that right by which, in an exigency, the government or its agents may seize on persons or property, to be used for the general weal. Now, upon this there are two suggestions which at once present themselves.—First, that this right only occurs in cases of real exigency;\* and secondly, that the writers on national law—and the Constitution of the United States expressly sanctions the principle—say, that no property can be thus taken without full and fair compensation.†

These gentlemen, we hope to prove conclusively before finishing, have failed to show the *exigency*; and even if they have proved that, they deny the right of compensation, and upon what principle? why, that the whole state is not competent to afford it, and may therefore justly *abate* the *nuisance*. And is it possible that a burthen, in this christian land, is most unfeelingly and remorselessly to be imposed upon a portion of the state, which, by the very confession of the gentlemen who urge it, could not be borne by the whole without inevitable ruin? But it was the main object of their speeches to show, that slave property is valueless, that it is a burthen, a *nuisance* to the owner; and they seemed most anxious to enlighten the poor ignorant farmers on this point, who hold on with such pertinacity to

\* It is, then, the right of necessity, and may be defined that right which authorizes the performance of an act absolutely necessary for the discharge of an indisputable duty. But private property must always be paid for.

† The Congress of the United States, in the case of Marigny d'Auterive, placed slave property upon precisely the same footing, in this respect, with all other kinds.



this kind of property, which is inflicting its bitterest sting upon them. Now, is it not enough for the slave holder to reply, that the circumstance of the slave bearing the price of two hundred dollars in the market, is an evidence of his value with every one acquainted with the elements of political economy; that, generally speaking, the market value of the slave is even less than his real value; for no one would like to own and manage slaves unless equally or more profitable than other kinds of investments in the same community; and if this or that owner may be pointed out as ruined by this species of property, might we not point to merchants, mechanics, lawyers, doctors, and divines, all of whom have been ruined by their several pursuits; and must all these employments be abated as *nuisances*, to satisfy the crude, undigested theories of tampering legislators? "It is remarkable," we quote the language of the author of the Letters of Appomattox, "that this, 'nuisance' is more offensive in a direct ratio to its distance from the complaining party, and in an inverse ratio to the quantity of offending matter in his neighborhood; that a 'magazine of gunpowder' in the town of Norfolk is a 'nuisance' to the county of Berkeley, and to all the people of the west! The people of the west, in which there are comparatively few slaves, in which there never can be any great increase of that kind of property, because their agriculture does not require it, and because in a great part of their country the negro race cannot be acclimated—the people of the west find our slave property in our *planting country*, where it is valuable, a 'nuisance' to *them*. This reverses the proverb, that men bear the ills of others better than their own. I have known men sell all their slave property and vest the proceeds in the stocks, and become zealous for the abolition of slavery. And it would be a matter of curiosity to ascertain (if it could be done) the aggregate number of slaves, held by all the orators and all the printers who are so willing to abate the nuisance of slave property held by other people. I suspect the census would be very short."—*Letters of Appomattox to the People of Virginia*.

The fact is, it is always a most delicate and dangerous task for one set of people to legislate for another, without any community of interests. It is sure to destroy the great principle of responsibility, and in the end to lay the weaker interest at the mercy of the stronger. It subverts the very end for which all governments are established, and becomes intolerable, and consequently against the fundamental rights of man, whether prohibited by the constitution or not.

If a convention of the whole state of Virginia were called, and in due form the right of slave property were abolished by the votes of Western Virginia alone, does any one think that Eastern Virginia would be bound to yield to the decree? Certainly not. The strong and unjust man in a state of nature robs the weaker, and you establish government to prevent this oppression. Now, only sanction the doctrine of the Virginia orators, let one interest in

the government (the west) rob another at pleasure (the east), and is there any man who can fail to see that government is systematically producing that very oppression which it is intended to remedy, and for which alone it is established? In forming the late Constitution of Virginia, the East objected to the "white basis principle," upon the very grounds that it would enable Western to oppress Eastern Virginia, through the medium of slave property. The most solemn asseverations of a total unwillingness, on the part of the West, to meddle with or touch the slave population, beyond the rightful and equitable demands of revenue, were repeatedly made by their orators. And now, what has the lapse of two short years developed? Why, that the West, unmindful of former professions, and regardless of the eternal principles of justice, is urging on an invasion and final abolition of that kind of property which it was solemnly pledged to protect! Is it possible that gentlemen can have reflected upon the consequences which even the avowal of such doctrines is calculated to produce? Are they conciliatory? Can they be taken kindly by the East? Is it not degrading for freemen to stand quailing with the fear of losing that property which they have been accumulating for ages—to stand waiting in fearful anxiety for the capricious edict of the West, which may say to one man, "sir, you must give up your property, although you have amassed it under the guarantee of the laws and constitutions of your state and of the United States;" and to another, who is near him and has an equal amount of property of a different description, and has no more virtue and no more conscience than the slave holder, "you may hold yours, because we do not yet consider it a 'nuisance'?" This is language which cannot fail to awaken the people to a sense of their danger. These doctrines, whenever announced in debate, have a tendency to disorganize and unhinge the condition of society, and to produce uncertainty and alarm;\* to create revulsions of capital; to cause the land of Old Virginia, and real source of wealth, to be abandoned; and her white wealthy population to flee the state, and seek an asylum in a land where they will be protected in the enjoyment of the fruits of their industry. In fine, we would say, these doctrines are "nuisances," and if we were disposed to retaliate, would add that they ought to be "abated." We will close our remarks on this dangerous doctrine, by calling upon Western Virginia and the non-slaveholders of Eastern Virginia, not to be allured by the syren song. It is as delusive as it may appear fascinating; all the sources of wealth and departments of industry, all the great interests of society, are really interwoven with one another—they form an indissoluble chain; a blow at any part quickly vibrates through the whole length—the destruction of one interest involves another.

\* We look upon these doctrines as calculated to produce precisely the same results as are produced by the government of Turkey, which, by rendering property insecure, has been able to arrest, and permanently to repress, the prosperity of the fairest and most fertile portions of the globe.



Destroy agriculture, destroy tillage, and the ruin of the farmer will draw down ruin upon the mechanic, the merchant, the sailor, and the manufacturer—they must all flee together from the land of desolation.

We hope we have now satisfactorily proved the impracticability of sending off the whole of our slave population, or even the annual increase; and we think we have been enabled to do this by pointing out only one half of the difficulties which attend the scheme. We have so far confined our attention to the expense and difficulty of purchasing the slaves, and sending them across the ocean. We have now to look a little to the recipient or territory to which the blacks are to be sent; and if we know any thing of the history and nature of colonization, we shall be completely upheld in the assertion, that the difficulties on this score are just as great and insurmountable as those which we have shown to be attendant on the purchase and deportation. We shall be enabled to prove, if we may use the expression, *a double impracticability* attendant on all these schemes.

### *The Impossibility of Colonizing the Blacks.*

The whole subject of colonization is much more difficult and intricate than is generally imagined, and the difficulties are often very different from what would, on slight reflection, be anticipated. They are of three kinds, physical, moral, and national. The former embraces unhealthy climate or want of proper seasoning, a difficulty of procuring subsistence and the conveniences of life, ignorance of the adaptations and character of the soils, want of habitations, and the necessity of living together in multitudes for the purposes of defence, whilst purposes of agriculture require that they should live as dispersed as possible. The moral difficulties arise from a want of adaptation on the part of the new colonists to their new situation, want of conformity in habits, manners, tempers, and dispositions, producing a heterogeneous mass of population, uncemented and unharmonizing. Lastly, the difficulties of a national character embrace all the causes of altercation and rupture between the colonists and neighboring tribes or nations; all these dangers, difficulties, and hardships, are much greater than generally believed. Every new colony requires the most constant attention, the most cautious and judicious management in both the number and character of the emigrants, a liberal supply of both capital and provisions, together with a most watchful and paternal government on the part of the mother country, which may defend it against the incursions and depredations of warlike or savage neighbors. Hence the very slow progress made by all colonies in their first settlement.

The history of colonization is well calculated of itself to dissipate all the splendid visions which our chimerical philanthropists have indulged, in regard to its efficiency in draining off a redun-

dant or noxious population. The rage for emigration to the New World, discovered by Columbus, was at first very considerable; the brilliant prospects which were presented to the view of the Spaniards, of realizing fortunes in the abundant mines and on the rich soils of the islands and the continent, enticed many at first to leave their homes in search of wealth, happiness, and distinction—and what was the consequence? “The numerous hardships with which the members of infant colonies have to struggle,” says Robertson, “the diseases of unwholesome climates, fatal to the constitutions of Europeans; the difficulty of bringing a country covered with forests into culture; the want of hands necessary for labor in some provinces, and the slow reward of industry in all, unless where the accidental discovery of mines enriched a few fortunate adventurers, were evils immensely felt and magnified. Discouraged by the view of these, the spirit of migration was so much damped, that sixty years after the discovery of the New World, the number of Spaniards in all its provinces is computed not to have exceeded 15,000!”\* Even these few were settled at an expense of life both to the emigrants and the natives, which is really shocking to the feelings of humanity; and we cannot peruse the accounts of the conquests of Mexico and Peru, without feeling that the race destroyed was equal, in moral worth at least, to their destroyers.

In the settlement of Virginia, begun by Sir Walter Raleigh, and established by Lord Delaware, three attempts completely failed; nearly half of the first colony was destroyed by the savages, and the rest, consumed and worn down by fatigue and famine, deserted the country and returned home in despair. The second colony was cut off to a man in a manner unknown; but they were supposed to have been destroyed by the Indians. The third experienced the same dismal fate; and the remains of the fourth, after it had been reduced by famine and disease, in the course of six months, from five hundred to sixty persons, were returning in a famished and desperate condition to England, when they were met in the mouth of the Chesapeake Bay by Lord Delaware, with a squadron loaded with provisions, and every thing for their relief and defence.† The first puritan settlers, in like manner, suffered “woes unnumbered,”—nearly half perished by want, scurvy, and the severity of the climate.

The attempts to settle New-Holland, have presented a melancholy and affecting picture of the extreme hardships which infant colonies have to struggle with before the produce is even equal to the support of the colonists. The establishment of colonies, too, in the eastern part of the Russian dominions, has been attended with precisely the same difficulties and hardships.

After this very brief general review of the history of modern co-

\* Robertson's America, Vol. 2. p. 151.

† Malthus on Population, given upon the authority of both Burke's and Robertson's Virginia.



lonization, we will now proceed to examine into the prospects of colonizing our blacks on the coast of Africa, in such numbers as to lessen those left behind. And in the first place we would remark, that almost all countries, especially those in southern and tropical latitudes, are extremely unfavorable to life when first cleared and cultivated. Almost the whole territory of the United States and South America, offer a conclusive illustration of this fact. We are daily witnessing, in the progress of tillage in our country, the visitation of diseases of the most destructive kind, over regions hitherto entirely exempt; our bilious fevers, for example, seem to travel in great measure with the progress of opening, clearing, and draining of the country. Now, when we turn our attention to Africa, on which continent all agree that we must colonize, if at all, we find almost the whole continent possessing an insalubrious climate under the most favorable circumstances; and, consequently, we may expect this evil will be enhanced during the incipient stages of society, at any given point, while the progress of clearing, draining, and tilling is going forward. All the travellers through Africa agree in their descriptions of the general insalubrity of the climate. Park and Buffon agree in stating, that longevity is very rare among the negroes. At forty they are described as wrinkled and gray haired, and few of them survive the age of fifty-five or sixty; a Shangalla woman, says Bruce, at twenty-two, is more wrinkled and deformed by age, than a European at sixty; this short duration of life is attributable to the climate, for in looking over the returns of the census in our country, we find a much larger proportional number of cases of longevity among the blacks than the whites. "If accurate registers of mortality," says Malthus, (and no one was more indefatigable in his researches, or more capable of drawing accurate conclusions) "were kept among these nations (African), I have little doubt, that including the mortality from wars, one in seventeen or eighteen, at least, dies annually, instead of one in thirty-four or thirty-six, as in the generality of European states."\* The sea coast is described as being generally much more unhealthy than the interior. "Perhaps it is on this account chiefly," says Park, "that the interior countries abound more with inhabitants than the maritime districts."† The deleterious effects of African climate, are of course much greater upon those accustomed to different latitudes and not yet acclimated. It is melancholy, indeed, to peruse the dreadful hardships and unexampled mortality attendant upon those companies which have from time to time, actuated by the most praiseworthy views, penetrated into the interior of Africa.

It is difficult to say, which has presented most obstacles to the inquisitive traveller, the suspicion and barbarity of the natives, or the dreadful insalubrity of the climate. Now, it is to this conti-

\* See Malthus on Population, Book I. l. 8.

† See Park's Travels in Africa, p. 193. New York Edition.

ment, the original home of our blacks, to this destructive climate we propose to send the slave of our country, after the lapse of ages has completely injured him to our colder and more salubrious continent. It is true, that a territory has already been secured for the Colonization Society of this country, which is said to enjoy an unusually healthful climate. Granting that this may be the case, still when we come to examine into the capacity of the purchased territory for the reception of emigrants, we find that it only amounts to about 10,000 square miles, not a seventh of the superficies of Virginia. When other sites are fixed upon, we may not, and cannot expect to be so fortunate;—are not the most healthy districts in Africa the most populous, according to Park and all travellers? Will not these comparatively powerful nations, in all probability relinquish their territory with great reluctance? Will not our lot be consequently cast on barren sands or amid pestilential atmospheres, and then what exaggerated tales and false statements must be made if we would reconcile the poor blacks to a change of country pregnant with their fate?

But we believe that the very laudable zeal of many conscientious philanthropists has excited an overweening desire to make our colony in Liberia, in every point of view, appear greatly superior to what it is. We know the disposition of all travellers to exaggerate; we know the benevolent feelings of the human heart, which prompt us to gratify and minister to the desires and sympathies of those around us, and we know that philanthropic schemes, emancipation, and colonization societies, now occupy the public mind, and receive the largest share of public applause. Under these circumstances, we are not to wonder if coloring should sometimes impair the statements of those who have visited the colony; for ourselves, we may be too sceptical, but are rather disposed to judge from facts which are acknowledged by all, than from general statements from officers and interested agents. In 1819, two agents were sent to Africa to survey the coast and make a selection of a suitable situation for a colony. In their passage home in 1820, one died. In the same year, 1820, the *Elizabeth* was chartered and sent out with three agents and eighty emigrants. All three of the agents and twenty of the emigrants died, a proportional mortality greater than in the *middle passage*, which has so justly shocked the humane feelings of mankind, and much greater than that occasioned by that dreadful plague (the Cholera) which is now clothing our land in mourning, and causing our citizens to flee in every direction to avoid impending destruction. In the spring of 1821, four new agents were sent out, of whom one returned sick, one died in August, one in September, and we know not what became of the fourth.\* It is agreed on all hands, that there is a seasoning necessary, and a formidable fever to be encountered, be-

\* These facts we have stated upon the authority of Mr. Carey, of Philadelphia, who has given us an interesting, but I fear too flattering account of the Colony, in a series of letters addressed to the Hon. Charles F. Mercer.



fore the colonists can enjoy tolerable health. Mr. Ashmun, who afterwards fell a victim to the climate, insisted that the night air of Liberia was free from all noxious effects; and yet we find that the emigrants, carried by the *Volador* to Liberia a year or two since, are said to have fared well, losing only two, in consequence of every precaution having been taken against the night air, while the most dreadful mortality destroyed those of the Carolinian, which went out nearly contemporaneously with the *Volador*. The letter of Mr. Reynolds marked G, at the conclusion of the Fifteenth Annual report of the American Colonization Society, instructs us in the proper method of preserving health on the coast of Africa, and in spite of the flattering accounts and assurances of agents and philanthropists, we should be disposed to take warning from these salutary hints. The following are some of them;—

“1st. On no account to suffer any of the crew to be out of the ship *at sunset*.

“2d. To have a sail stretched on the windward *side* of the vessel; and an awning was also provided, which extended over the poop and the whole main deck, *to defend the crew from the night air*.

“3d. The night watch was encouraged to smoke tobacco.

“4th. To distribute French brandy to the crew whilst in port, in lieu of rum. (The editor of the Report modestly recommends strong coffee.) The crew on rising were served with a liberal allowance of strong coffee before commencing their day’s work.

“The result was that the ships on each side of the Cambridge lost the *greater* part of their crews; and not one man of her crew was seriously unwell.” (*Fifteenth Annual Report*, p. 51, published in *Georgetown*, 1832.)

We have said enough to show that the Continent of Africa, and its coasts particularly, are extremely unhealthy—that the natives themselves are not long lived—and that unacclimated foreigners are in most imminent danger. That there may be some healthy points on the sea shore, and salubrious districts in the interior, and that Liberia may be fortunately one of them, we are even willing to admit—but then we know that generally the most insalubrious portions will fall into our possession, because those of an opposite character are already too densely populated to be deserted by the natives—and consequently, let us view the subject as we please, we shall have this mighty evil of unhealthy climate to overcome. We have seen already, in the past history of our colony, that the slightest blunder, in landing on an unhealthy coast, in exposure to a deadly night air, or in neglecting the necessary precautions during the period of acclimating, has proved most frightfully fatal to both blacks and whites. Suppose now, that instead of the one or two hundred sent by the Colonization Society, Virginia should actually send out six thousand—or if we extend our views to the whole United States, that sixty thousand should be annually exported, accompanied of course by some hundreds of whites, what an awful fatality might we not occasionally expect? The chance for blundering would be infinitely increased, and if some

ships might fortunately distribute their cargoes with the loss of few lives, others again might lose all their whites and a fourth or more of the blacks, as we know has already happened; and although this fatality might arise from blunder or accident, yet would it strike the imagination of men—and that which may be kept comparatively concealed now, would, when the number of emigrants swelled to such multitudes, produce alarm and consternation. We look forward confidently to the day, if this wild scheme should be persevered in for a few years, when the poor African slave, on bended knees, might implore a remission of that fatal sentence which would send him to the land of his forefathers.

But the fact is, that all climates will prove fatal to emigrants who come out in too great crowds, whether they are naturally unhealthy or not. One of the greatest attempts at colonization in modern times, was the effort of the French to plant at once 12,000 emigrants on the coast of Guiana. The consequence was, that in a very short time 10,000 of them lost their lives in all the horrors of despair, 2,000 returned to France, the scheme failed, and 25,000,000 of francs, says Raynal, were totally lost. Seventy-five thousand Christians, says Mr. Eaton in his account of the Turkish empire, were expelled by Russia from the Crimea, and forced to inhabit the country deserted by the Nogai Tartars, and in a few years only 7000 of them remained. In like manner, if 6000, or much more, if 60,000 negroes, with their careless and filthy habits, were annually sent to Africa, we could not calculate, for the first one or two years, upon less than the death of one-half or perhaps three-fourths; and, repugnant as the assertion may be to the feelings of benevolence, we have no hesitation in saying, that nothing but a most unparalleled mortality among the emigrants, would enable us to support the colony for even a year or two. Aristotle was of opinion, that the keeping of 5000 soldiers in idleness would ruin an empire. If the brilliant anticipations of our colonization friends shall be realized, and the day actually arrives, when 60,000, or even 6000 blacks can be annually landed in health upon the coast of Africa, then will the United States, or broken down Virginia, be obliged to support an *empire* in idleness. "The first establishment of a new colony," says Malthus, "generally presents an instance of a country peopled considerably beyond its actual produce; and the natural consequence seems to be, that this population, if not amply supplied by the mother country, should, at the commencement, be diminished to the level of the first scanty productions, and not begin permanently to increase till the remaining numbers had so far cultivated the soil as to make it yield a quantity of food more than sufficient for their own support, and which consequently they could divide with a family. The frequent failures of new colonies tend strongly to show the order of precedence between food and population."\* It is for

\* Malthus on Population, vol. 2. pp. 140, 141.



this reason that colonies so slowly advance at first, and it becomes necessary to *feed* them (if we may so express ourselves) with extreme caution, and with limited numbers, in the beginning. But a few additional mouths will render support from the mother country necessary. If this state of things continues for a short time, you make the colony a great *pauper* establishment, and generate all those habits of idleness and worthlessness which will ever characterize a people dependent on the bounty of others for their subsistence. If Virginia should send out 6000 emigrants to Africa, and much more, if the United States should send 60,000, the whole colony would inevitably perish, if the wealth of the mother country was not exhausted for their supply. Suppose a member in Congress should propose to send out an army of 60,000 troops, and maintain them on the coast of Africa; would not every sensible man see at once that the thing would be impracticable, if even the existence of our country depended upon it?—it would ruin the greatest empire on the globe—and yet, strange to tell, the philanthropists of Virginia are seriously urging her to attempt that which would every year impose upon her a burthen proportionally greater than all this!

If any man will for a moment revert to the history of Liberia, which has been as flourishing or even more flourishing than similar colonies, there will be seen at once enough to convince the most sceptical of the truth of this assertion. What says Mr. Ashmun, perhaps the most intelligent and most judicious of colonial agents?—"If rice grew spontaneously," said he, "and covered the country, yet it is possible by sending few or none able to reap and clean it, to starve 10,000 helpless children and infirm old people in the midst of plenty. Rice does not grow spontaneously however; nor can any thing necessary for the subsistence of the human species, be procured here without the sweat of the brow. Clothing, tools, and building materials are much dearer here than in America. But send out your emigrants, laboring men and their families only, or laborious men and their families, accompanied only with their natural proportion of inefficients; and *with the ordinary blessings of God*, you may depend on their causing you a *light expense* in Liberia," &c. Again, "If such persons (those who cannot work,) are to be *supported* by American funds, *why not keep them in America*, where they can do something, by picking cotton and stemming tobacco, towards supporting themselves. I know that nothing is effectually done in colonizing this country, till the colony's own resources can sustain *its own*, and a *considerable annual increase of population*." Here then are statements from one most zealous and enthusiastic in the cause of colonization, one who has sacrificed his life in the business, which clearly show that the Colonization Society, with its very limited means, has over supplied the colony with emigrants. What then might not be expected from the tremendous action of the state and general governments on this subject? they would raise up a pauper establishment, which we con-

scientifically believe, would require the disposable wealth of the rest of the world to support, and the thousands of emigrants who would be sent, so far from being *laborious men*, would be the most idle and worthless of a race, who only desire liberty because they regard it as an exemption from labor and toil. Every man, too, at all conversant with the subject, knows that such alone are the slaves which a kind master will ever consent to sell, to be carried to a distant land. Sixty thousand emigrants per annum to the United States, would even now sink the wages of labor, and embarrass the whole of our industrious classes, although we have at this moment lands, capable of supporting millions more when gradually added to our population.

The Irish emigrants to Great Britain, have already begun to produce disastrous effects. "I am firmly persuaded," says Mr. M'Culloch, "that nothing so deeply injurious to the character and habits of our people, has ever occurred, as the late extraordinary influx of Irish laborers.—If another bias be not given to the current of emigration, Great Britain will necessarily continue to be the grand outlet for the pauper population of Ireland, nor will the tide of beggary and degradation cease to flow, until the plague of poverty has spread its ravages over both divisions of the empire."\* Where, then, in the wide world, can we find a *fulcrum* upon which to place our mighty lever of colonization? nowhere! we repeat it, *nowhere!* unless we condemn emigrants to absolute starvation. Sir Josiah Childe, who lived in an age of comparative ignorance, could well have instructed our modern philanthropists in the true principles of colonization. "*Such as our employment is,*" says he, "*so will our people be;* and if we should imagine we have in England employment but for one hundred people, and we have born and bred (or he might have added brought) amongst us one hundred and fifty—fifty must away from us, or starve, or be hanged to prevent it."† And so say we in regard to our colonization—if our new colony cannot absorb readily more than one or two hundred per annum, and we send them 6000 or 60,000, the surplus "must either flee away or starve or be hanged," or be fed by the mother country, (which is impossible.)

So far we have been attending principally to the difficulties of procuring subsistence; but the habits and moral character of our slaves present others of equal importance and magnitude. Doctor Franklin says that one of the reasons why we see so many fruitless attempts to settle colonies at an immense public and private expense by several of the powers of Europe, is that the moral and mechanical habits adapted to the mother country, are frequently not so to the new settled one, and to external events, many of which are unforeseen, and that it is to be remarked that none of the English colonies became any way considerable, till the necessary

\* M'Culloch's Edition of the *Wealth of Nations*, 4th vol. pp. 154, 155. Edinburgh Edition.

† Sir Josiah Childe's *Discourse on Trade*.



manners were born and grew up in the country. Now, with what peculiar and overwhelming force does this remark apply to our colonization of liberated blacks? We are to send out thousands of these, taken from a state of slavery and ignorance, unaccustomed to guide and direct themselves, void of all the attributes of free agents, with dangerous notions of liberty and idleness, to elevate them at once to the condition of freemen, and invest them with the power of governing an empire, which will require more wisdom, more prudence, and at the same time more firmness than ever government required before. We are enabled to support our position by a quotation from an eloquent supporter of the American colonization scheme. "Indeed," said the Rev. Mr. Bacon, at the last meeting of the American Colonization Society, "it is something auspicious, that in the earlier stages of our undertaking, there has not been a general rush of emigration to the colony. In *any single year* since Cape Montserado was purchased, the influx of *a thousand emigrants* might have been fatal to our enterprize.—The new comers into any community must always be a *minority*, else every arrival is a *revolution*; they must be a *decided minority*, easily absorbed into the system and mingled with mass, else the community is constantly liable to convulsion. Let 10,000 *foreigners, rude and ignorant*, be landed at once in this District (of Columbia,) and what would be the result? Why you must have an armed force here to keep the peace;—so *one thousand* now landing *at once* in our colony, might be its ruin."\*

The fact is, the *true* and *enlightened* friends of colonization, must reprobate all those chimerical schemes proposing to deport any thing like the increase of one state, and more particularly of the whole United States. The difficulty just explained, has already been severely felt in Liberia, though hitherto supplied very scantily with emigrants, and those generally the most exemplary of the free blacks: thus in 1828 it was the decided opinion of Mr. Ashmun, "that for at least two years to come, a much more discriminating selection of settlers must be made, than ever has been—even in the first and second expeditions by the Elizabeth and Nautilus in 1820 and '21, or that the prosperity of the colony will *inevitably and rapidly decline*." Now when to all these difficulties we add the prospect of frequent wars with the natives of Africa,† the great expense we must incur to support the colony, and the anomalous position of Virginia, an *imperium in imperio*, holding an empire abroad, we do not see how the whole scheme can be pronounced any thing less than a *stupendous piece of folly*."

The progress of the British colony at Sierra Leone is well calculated to illustrate the great difficulties of colonizing negroes on the coast of Africa, and we shall at once present our readers with a brief history of this colony, given by one who seems to be a warm

\* See Fifteenth Annual Report of American Colonization Society, p. 10.

† The Colony has already had one conflict with the natives, in which it had like to be overwhelmed.

advocate of colonization, and consequently disposed to present the facts in the most favorable aspect. On the 8th of April 1787, 400 negroes and 60 Europeans sailed from England, supplied with provisions for 6 or 8 months, for Sierra Leone. Now mark the consequences:—"The result was unfortunate and even discouraging. The *crowded* condition of the transports, the *unfavorable* season at which they arrived on the coast, and the *intemperance* and *imprudence* of the emigrants, brought on a mortality which reduced their numbers nearly *one-half* during the *first* year. Others *deserted* soon after landing, until *forty* individuals only remained. In 1788, Mr. Sharp sent out thirty nine more, and then a number of the deserters returned, and the settlement *gradually* gained strength. But during the next year, a *controversy* with a *neighboring native chief*, ended in *wholly* dispersing the colony; and sometime elapsed before the remnants could be again collected. A charter of incorporation was obtained in 1791. Not long afterwards, about 1200 new emigrants were introduced, being originally refugees from *this* country (United States,) who had placed themselves under British protection. Still, affairs were *very badly* managed. *One-tenth* of the Nova Scotians, and *half* of the Europeans, died during *one* season, as much from *want of provisions* as any other cause. Two years afterwards, a store-ship belonging to the company, which had been made the receptacle of African produce, was lost by fire, with a cargo valued at £15,000. Then INSURRECTIONS arose among the blacks! *Worst of all*, in 1794, a large French squadron, wholly without provocation, *attacked* the settlement, and although the colors were immediately struck, proceeded to an *indiscriminate pillage*.\*——(Some years) afterwards a large number of the worst part of the settlers, chiefly the Nova Scotians, *rebelled* against the Colonial Government. The governor called in the assistance of the *neighboring African tribes*, and matters were on the eve of a battle, when a transport arrived in the harbor, bringing 550 Maroons from Jamaica. Lots of land were given to these men; they proved regular and industrious, and the insurgents laid down their arms. Wars next ensued with the *natives*, which were not finally concluded until 1807. On the first January 1808, all the rights and possessions of the company were surrendered to the British Crown; and in this situation they have ever since remained." (See 76th No. of the *North American Review*, pp. 120 and 121.) The progress of the colony since 1808, has been as little flattering as before that period; and even Mr. Everett, before the Colonization Society in Washington, has been forced to acknowledge its failure. (See *Mr. Everett's Speech 15th Annual Report*.)

Thus does this negro colony at Sierra Leone, illustrate most

\* We would beg leave most respectfully to ask our Virginia Abolitionists, how an insult of this character offered to any colony which we might establish in Africa, would be resented? Would the *Nation* of Virginia, declare war on the aggressor? and if she did, where would be her navy, her sailors, her soldiers, and the *constitutionality* of the act?



fully the fearful and tremendous difficulties, which must ever attend every infant colony formed on the coast of Africa. During the brief period of its existence, it has been visited by all the plagues that colonial establishments "are heir to." It has been cursed with the intemperance, imprudence, and desertion of the colonists, with want of homogeneous character and consequent dissensions, civil wars and insurrections. It has experienced famines, and suffered insult and pillage. Its numbers have been thinned by the blighting climate of Africa. Its government has been wretched, and it has been almost continually engaged in war with the neighboring Afric tribes.\*

Some have supposed that the circumstance of the Africans being removed a stage or two above the savages of North America, will render the colonization of Africa much easier than that of America:—we draw directly the opposite conclusion. The Indians of North America had nowhere taken possession of the soil; they were wanderers over the face of the country; their titles could be extinguished for slight considerations; and it is ever melancholy to reflect that their habits of improvidence and of intoxication, and even their cruel practices in war, have all been (such has been for them the woeful march of events,) favorable to the rapid increase of the whites, who have thus been enabled to exterminate the *red men*, and take their places.

The natives of Africa exist in the rude agricultural state, much more numerous than the natives of America. Their titles to land will be extinguished with much more difficulty and expense. The very first contact with our colony will carry to them the whole art and implements of war.† As our colonists spread and press upon them, border wars will arise; and in vain will the attempt be made to extirpate the African nations, as we have the Indian tribes: every inhabitant of Liberia who is taken prisoner by his enemy, will be consigned, according to the universal practice of Africa, to the most wretched slavery either in Africa or the West Indies. And what will our colony do? Must they murder, while their enemies enslave? Oh, no, it is too cruel, and will produce barbarizing and exterminating wars. Will they spare the prisoners of war? No! There does not and never will exist a people on

\* Perhaps it may be said, that all these things may be avoided in our colonies, by wise management and proper caution. To this we answer, that in speculating upon the destiny of multitudes or nations, we must embrace within our calculation all the elements as they actually exist—civil, political, moral, and physical—and our deductions to be true, must be taken, not from the *beau ideal* which a vivid imagination may sketch out, but from the *average* of concomitant circumstances. It would be a poor apology which a statesman could offer, for the failure of a certain campaign which he had planned, to say that he had calculated that every officer in the army was a Napoleon or a Cesar, and that every regiment was equal to Cesar's 10th Legion or the Imperial guard of Napoleon. The physicians say there is not much danger to be apprehended from Cholera, when due caution and prudence are exercised. Yet, we apprehend it would be a very unfair conclusion if we were to assert, that when the Cholera breaks out in Charleston there will not be *one* single death,—and yet we have just as much right to make this assertion, as to say that our colony in Africa will be free from all the accidents, plagues and calamities to which all such establishments have ever been subjected.

† Powder and fire-arms formed material items in the purchase of Liberia.

earth, who would tamely look on and see their wives, mothers, brothers, and sisters, ignominiously enslaved, and not resent the insult. What, then, will be done? Why, they will be certain to enslave too; and if domestic slavery should be interdicted in the colony, it would be certain to encourage the slave trade;\* and if we could ever look forward to the time when the slave trade should be destroyed, then the throwing back of this immense current upon Africa would inundate all the countries of that region. It would be like the checking of the emigration from the northern hives upon the Roman world. The northern nations, in consequence of this check, soon experienced all the evils of a redundant population, and broke forth with their redundant numbers in another quarter; both England and France were overrun, and the repose of all Europe was again disturbed. So, would a sudden check to the African slave trade, cause the redundant population of Africa to break in, like the Normans and the Danes, on the abodes of civilization situated in their neighborhood. Let, then, the real philanthropist ponder over these things, and tremble for the fate of colonies which may be imprudently planted on the African soil. The history of the world has too conclusively shown, that two races, differing in manners, customs, language, and civilization, can never harmonize upon a footing of equality. One must rule the other, or exterminating wars must be waged. In the case of the savages of North America, we have been successful in exterminating them; but in the case of African nations, we do think, from a view of the whole subject, that our colonists will most probably be the victims; but the alternative is almost equally shocking, should this not be the case. They must, then, be the exterminators or enslavers of all the nations of Africa with which they come into contact. The whole history of colonization, indeed, presents one of the most gloomy and horrific pictures to the imagination of the genuine philanthropist which can possibly be conceived. The many Indians who have been murdered, or driven in despair from the haunts and hunting grounds of their fathers—the heathen driven from his heritage, or hurried into the presence of his God in the full blossom of all his heathenish sins—the cruel slaughter of Ashantees—the murder of Burmese—all, *all* but too eloquently tell the misery and despair portended by the advance of civilization to the savage and the pagan, whether in America, Africa, or Asia. In the very few cases where the work of desolation ceased, and a commingling of races ensued, it has been found that the civilized man has sunk down to the level of barbarism, and there has ended the mighty work of civilization! Such are the melancholy pictures which sober reason is constrained to draw of the future destinies of our colony in Africa. And what, then, will become of that grand and glorious idea of carrying religion,

\* We fear our colony at Liberia is not entirely free from this stain even now; it is well known that the British colony at Sierra Leone has frequently aided the slave trade.



intelligence, industry, and the arts, to the already wronged and injured Africa? It is destined to vanish, and prove worse than mere delusion. The rainbow of promise will be swept away, and we shall awake at last to all the sad realities of savage warfare and increasing barbarism. We have thus stated some of the principal difficulties and dangers accompanying a scheme of colonization, upon a scale as large as proposed in the Virginia Legislature. We have said enough to show, that if we ever send off 6000 per annum, we must incur an expense far beyond the purchase money.

The expense of deportation to Africa we have estimated at thirty dollars; but when there is taken into the calculation the further expense of collecting in Virginia,\* of feeding, protecting, &c., in Africa, the amount swells beyond all calculation. Mr. Tazewell, in his able Report on the colonization of free people of colour on the African coast, represents this expense as certainly amounting to one hundred dollars; and judging from actual experience, was disposed to think two hundred dollars would fall below the fair estimate. If the Virginia scheme shall ever be adopted, we have no doubt that both these estimates will fall below the real expense. The annual cost of removing 6000, instead of being \$1,380,000, will swell beyond \$2,400,000, an expense sufficient to destroy the entire value of the whole property of Virginia. Voltaire, in his Philosophical Dictionary, has said, that such is the inherent and preservative vigour of nations, that governments cannot possibly ruin them; that almost all governments which had

\* Even supposing the number of blacks, to be annually deported, should ever be fixed by the State, the difficulty of settling upon a proper plan of purchase and collection, will be infinitely greater than any man would be willing to admit, who has not seriously reflected on the subject, and the *apple of discord* will be thrown into the Virginia Legislature the moment it shall ever come to discuss the details. Suppose, for example, 6000 are to be sent off annually, will you send negro buyers through the country to buy up slaves wherever they can be bought, until 6000 are purchased? If you do, you will inevitably gather together the very *dregs* of creation, the most *vicious*, the most *worthless* and the most *idle*, for these alone will be sold! a frightful population, whose multitudes when gathered together and poured upon the infant settlements in Africa, will be far more destructive than the *Lava flood* from the Volcano. Again, some portions of the state might sell cheaper than others, and an undue proportion of slaves would be purchased from these quarters, and cause the system to operate unequally. Will you divide the state into sections, and purchase from each according to black population? Then, what miserable sectional controversy, should we have in the state? What dreadful grumbling in the west! Moreover, the same relative numbers abstracted from a very dense and a very sparse black population, will produce a very different effect on the labor market. Thus, we will suppose along the margin of the James River, from Richmond to Norfolk, the blacks are 20 for 1 white, and that in some county beyond the Blue Ridge, this proportion is reversed. Suppose farther, that a 20th of the blacks are to be bought up and sent off, this demand will have but a slight effect on the labor market in the county beyond the Ridge, because it calls for only one in 400 of the population; whereas the effect would be great along the James River, as it would take away one in 21 of the population. The slaves, in every section, would command a different price; and we should be obliged to establish our *Octroi* and *Douanier*, and tax or prevent the migration of negroes from one section to another. But we will not pursue further the examination of mere details, which do not fall within our original design. It will be discovered from even a slight analysis, that every single branch of this gigantic scheme of folly, like the teeth of the fabled Dragon, will bring you forth an *armed man* to arrest your progress.

been established in the world had made the attempt, but had failed. If the sage of France had lived in our days, he would have had a receipt furnished by some of our philanthropists, by which this work might have been accomplished! We read in holy writ of one great emigration from the land of Egypt, and the concomitant circumstances should bid us well beware of an imitation, unless assisted by the constant presence of Jehovah. Ten plagues were sent upon the land of Egypt before Pharaoh would consent to part with the Israelites, the productive laborers of his kingdom. But a short time convinced him of the heavy loss which he sustained by their removal, and he gave pursuit; but God was present with the Israelites—He parted the waters of the Red Sea for *their* passage, and closed them over the Egyptians—He led on his chosen people through the wilderness, testifying his presence in a pillar of fire by night and a cloud of smoke by day—He supplied them with manna in their long journey, sending a sufficiency on the sixth for that and the seventh day. When they were thirsty the rocks poured forth waters, and when they finally arrived in the land of promise, after the loss of a generation, the mysterious will of heaven had doomed the tribes of Canaan to destruction; fear and apprehension confounded all their counsels; their battlements sunk down at the trumpet's sound; the native hosts, under heaven's command, were all slaughtered; and the children of Israel took possession of the habitations and property of the slaughtered inhabitants. The whole history of this emigration beautifully illustrates the great difficulties and hardships of removal to foreign lands of multitudes of people. And as a citizen of Virginia, we can never consent to so grand a scheme of colonization on the coast of Africa, until it is sanctioned by a *decree* of heaven, made known by signs, far more intelligible than an *eclipse* and *greenness* of the sun—till *manna* shall be rained down for the subsistence of our black emigrants—till seas shall be parted, and waters flow from rocks for their accommodation—till we shall have a leader like Moses, who, in the full confidence of all his piety and all his religion, can, in the midst of all the appalling difficulties and calamities by which he may be surrounded, speak forth to his murmuring people, in the language of comfort, "Fear ye not, stand still, and see the salvation of the Lord, which he will shew to you to-day."

But, say some, if Virginia cannot accomplish this work, let us call upon the general government for aid—let Hercules be requested to put his shoulders to the wheels, and roll us through the formidable *quagmire* of our difficulties. Delusive prospect! Corrupting scheme! We will throw all constitutional difficulties out of view, and ask if the federal government can be requested to undertake the expense for Virginia, without encountering it for the whole slave holding population? And then, whence can be drawn the funds to purchase more than 2,000,000 of slaves, worth at the lowest calculation \$ 400,000,000; or if the increase alone be sent



off, can Congress undertake annually to purchase at least 60,000 slaves at an expense of \$12,000,000, and deport and colonize them at an expense of twelve or fifteen millions more? But the fabled hydra would be more than realized in this project. We have no doubt that if the United States in good faith should enter into the slave markets of the country, determined to purchase up the whole annual increase of our slaves, so unwise a project, by its artificial demand, would immediately produce a rise in this property, throughout the whole southern country, of at least 33 1-3 per cent. It would stimulate and invigorate the *spring* of black population, which, by its tremendous action, would set at naught the puny efforts of man, and like the Grecian matron, unweave in the night what had been woven in the day. We might well calculate upon an annual increase of at least four and an half per cent. upon our two millions of slaves, if ever the United States should create the artificial demand which we have just spoken of; and then, instead of an increase of 60,000, there will be 90,000, bearing the average price of \$300 each, making the enormous annual expense of purchase alone \$27,000,000!—and difficulties, too, on the side of the colony, would more than enlarge with the increase of the evil at home. Our Colonization Society has been more than fifteen years at work; it has purchased, according to its friends, a district of country as congenial to the constitution of the black as any in Africa; it has, as we have seen, frequently over-supplied the colony with emigrants; and mark the *result*, for it is worthy of all observation, there are now not more than 2000 or 2500 inhabitants in Liberia! And these are alarmed lest the Southhampton insurrection may cause such an emigration as to inundate the colony. When, then, in the lapse of time, can we ever expect to build up a colony which can receive sixty or ninety thousand slaves per annum? And if this should ever arrive, what guarantee could be furnished us that their ports would always be open to our emigrants? Would law or compact answer? Oh, no! Some legislator, in the plenitude of his wisdom, might arise, who could easily and *truly* persuade his countrymen that these annual importations of blacks were *nuisances*, and that the laws of God, whatever might be those of men, would justify their abatement. And the drama would be wound up in this land of promise and expectation, by turning the cannon's mouth against the liberated emigrant and deluded philanthropist. The scheme of colonizing our blacks on the coast of Africa, or any where else, by the United States, is thus seen to be more stupendously absurd than even the Virginia project. King Canute, the Dane, seated on the sea shore, and ordering the rising flood to recede from his royal feet, was not guilty of more vanity and presumption than the government of the United States would manifest, in the vain effort of removing and coloniz-

\* We must recollect, that the expense of colonizing\* increases much more rapidly than in proportion to the simple increase of the number of emigrants.

ing the annual increase of our blacks. So far from being able to remove the whole annual increase every year, we shall not be enabled to send off a number sufficiently great, to check *even* the *geometrical rate of increase*. Our black population, is now producing 60,000 per annum, and next year, we must add to this sum 1800, which the increment alone, is capable of producing, and the year after, the increment upon the increment, &c. Now, let us throw out of view for a moment, the idea of grappling with the whole annual increase, and see whether by colonization, we can expect to turn this geometrical increase into an arithmetical one. We will then take the annual increase, 60,000, as our capital, and it will be necessary to send off the increase upon this, 1800, to prevent the geometrical increase of the whole black population. Let us, then, for a moment, inquire whether the abolitionists can expect to realize this *petty advantage*.

Mr. Bacon admits, that 1000 emigrants now thrown on Liberia, would ruin it. We believe that every reflecting sober member of the Colonization Society, will acknowledge, that 500 annually, are fully as many as the colony can now receive. We will assume this number, though no doubt greatly beyond the truth; and we will admit further, (what we could easily demonstrate to be much too liberal a concession,) that the capacity of the colony for the reception of emigrants, may be made to enlarge in a geometrical ratio, equal to that of the rate of increase of the blacks in the United States. Now with these very liberal concessions on our part, let us examine into the effect of the colonization scheme. At the end of the first year, we shall have for the amount of the 60,000, increasing at the rate of  $3\frac{1}{2}$  per cent. 61,800; and subtracting 500, we shall begin the second year, with the number of 61,300, which increasing at the rate of  $3\frac{1}{2}$  per cent. gives 63,139 for the amount at the end of the second year. Proceeding thus, we obtain at the end of 25 years, for the amount of the 60,000, 101,208. The number taken away, that is the sum of  $500 + 500 \times 1,003 + 500 \times 1,003^2$  &c. will be 18,197. It is thus seen, that in spite of the efforts of the colonization scheme, the bare annual increase of our slaves, will produce 41,208 more than can be sent off; which number of course must be added to the capital of 60,000;—and long, *very long*, before the colony in Africa upon our system of calculation even could receive the increase upon this accumulating capital, its capacity as a recipient would be checked by the limitation of territory and the rapid filling up of the population, both by immigration and natural increase. And thus by a simple arithmetical calculation, we may be convinced that the effort to check even the geometrical rate of increase, by sending off the increment upon the annual increase of our slaves, is greatly more than we can accomplish, and must inevitably terminate in disappointment,—more than realizing the fable of the Frog and the Ox,—for in this case we should have the frog *swelling*, not for the purpose of rivalling the ox in *size*, but to *swallow him down horns and all!!*



Seeing then, that the effort to send away the increase, on even the present increase of our slaves, must be vain and fruitless—how stupendously absurd must be the project, proposing to send off the whole increase, so as to keep down the negro population at its present amount! There are some things which man arrayed in all his “brief authority”—cannot accomplish, and this is one of them. Colonization schemers, big and busy in the management of all their *little machinery*, and gravely proposing it as an *engine* by which our black population may be sent to the now uncongenial home of their ancestors, across an ocean of thousands of miles in width, but too strongly remind us of the vain man, who in all the pomp and circumstance of power, ordered his servile attendants to stop the rise of ocean’s tide, by carrying off its accumulating waters. Emigration has rarely checked the increase of population, by directly lessening its number—it can only do it by the abstraction of capital and by paralyzing the spring of population,—and then it blights and withers the prosperity of the land. The population of Europe has not been thinned by emigration to the new world—the province of Andalusia in Spain, which sent out the greatest number of emigrants to the Islands and to Mexico and Peru, has been precisely the district in Spain which has increased its population most rapidly. Ireland now sends forth a greater number of emigrants, than any other country in the world; and yet the population of Ireland, is now increasing faster than any other population of Europe!

We hope, we have now said enough of these colonization schemes, to show that we can never expect to send off our black population, by their means,—and we cannot conclude without addressing a word of caution to the generous sons of the Old Dominion. It behooves them well to beware with what intent they look to the Federal Government, for aid in the accomplishment of these delusive—these *impracticable* projects. The guileful tempter of our original parents, seduced them with the offer of an *apple*, which proved their heaviest curse, drove them from the garden of Eden, and destroyed forever, their state of innocence and purity. Let Virginia beware then, that she be not tempted by the apple, to descend from that lofty eminence which she has hitherto occupied in our confederacy, and sacrifice upon the altar of misconceived interests—those pure political principles by which she has hitherto been so proudly characterised. This whole question of emancipation and deportation, is but too well calculated to furnish the political *lever*, by which Virginia is to be prised out of her natural and honorable position in the union, and made to sacrifice her noble political creed. We have witnessed with feelings of no common kind, the almost suppliant look cast towards the general government, by some of the orators in the Virginia debate. It has pained us to read speeches and pamphlets and newspaper essays, suggesting changes in the constitution, or at once boldly imploring without such changes, the action of the Federal Government. Unless the

sturdy patriots of Virginia stand forth, we fear indeed, that her noble principles will be swept away by the tide of corruption. The agitation of the slave question in the last Virginia Legislature, has already begun the work, and the consent of Virginia to receive federal aid in the scheme of emancipation and deportation, would complete it. As long as a state relies upon its own resources, and looks to no foreign quarter for aid or support, so long does she place herself without the sphere of temptation, and preserve her political virtue: This is one principal reason why Virginia has produced so many disinterested patriots—we will go further still, the generous, disinterested and noble character of southern politics generally, is in a great measure attributable to this very cause—the South has hitherto had nothing to ask of the Federal Government—she has been no dependent, no expectant at the door of the Federal Treasury—she has never therefore, betrayed the interest of the Union, for some paltry benefit to herself. But let her once consent to supplicate the aid of the general government on this slave question—and that moment will she sacrifice her high political principles, and become a dependent on that government. When Virginia shall consent to receive this boon, her hands will be tied forever, the *emancipating* interest will be added to the *internal improvement* and *Tariff* interests, and Virginia can no more array herself against the torrent of federal oppression; hitched to the car of the Federal Government, she will be ignominiously dragged forward, a conscience-stricken partner in the unholy alliance for oppression; and in that day, the genuine patriot, may well cast a longing, lingering look back to the days of purer principles, and “sigh for the loss of Eden.” And in this melancholy saddening retrospect, he will not have the poor consolation left, of seeing his once noble state, reap the paltry reward, which had so fatally tempted her to an abandonment of all her principles. Can any reflecting man, for a moment believe, that the North and West, forming the majority in our confederacy, would ever *seriously* consent to that enormous expenditure which would be necessary to carry into effect, this gigantic colonization scheme—a scheme whose direct operation would be, to take away that *very labor*, which now bears the burthen of federal exactions—a scheme whose operation would be to dry up the sources of that *very revenue*, upon which its success entirely depends!! Vain and delusive hope! Not one negro slave will ever be sent away from this country by federal funds—and heaven forbid there ever should,—and yet we fear the longing, lingering hope, will corrupt the pure principles of many a deluded patriot.

We have thus examined fully this scheme of emancipation and deportation, and trust we have satisfactorily shown, that the whole plan is utterly impracticable, requiring an expense and sacrifice of property far beyond the entire resources of the state and federal governments. We shall now proceed to inquire, whether we can emancipate our slaves with permission that they remain among us.



*Emancipation without Deportation.*

We candidly confess, that we look upon this last mentioned scheme as much more practicable and likely to be forced upon us, than the former. We consider it at the same time so fraught with danger and mischief both to the whites and blacks—so utterly subversive of the welfare of the slave holding country, in both an economical and moral point of view, that we cannot, upon any principle of right or expediency, give it our sanction. Almost all the speakers in the Virginia Legislature seemed to think there ought to be no emancipation without deportation. Mr. Clay, too, in his celebrated Colonization speech of 1830, says, “If the question were submitted whether there should be immediate or gradual emancipation of all the slaves in the United States, without their removal or colonization, painful as it is to express the opinion, *I have no doubt that it would be unwise to emancipate them.* I believe, that the aggregate of evils which would be engendered in society, upon the supposition of general emancipation, and of the liberated slaves remaining principally among us, would be greater than *all* the evils of slavery, great as they unquestionably are.” Even the northern philanthropists themselves admit, generally, that there should be no emancipation without removal. Perhaps, then, under these circumstances, we might have been justified in closing our review with a consideration of the colonization scheme; but as we are anxious to survey this subject fully in all its aspects, and to demonstrate upon every ground the complete justification of the whole southern country in a further continuance of that system of slavery which has been originated by no fault of theirs, and continued and increased contrary to their most earnest desires and petitions, we have determined briefly to examine this scheme likewise. As we believe the scheme of deportation *utterly impracticable*, we have come to the conclusion that in the present great question, the real and decisive line of conduct is either *abolition without removal*, or a *steady perseverance* in the system now established. “Paltry and timid minds,” says the present Lord Chancellor of England on this very subject, “shudder at the thought of *mere inactivity*, as cowardly troops tremble at the idea of calmly waiting for the enemy’s approach. Both the one and the other hasten their fate by relentless and foolish movements.”

The great ground upon which we shall rest our argument on this subject is, *that the slaves, in both an economical and moral point of view, are entirely unfit for a state of freedom among the whites*; and we shall produce such proofs and illustrations of our position, as seem to us perfectly conclusive. That condition of our species from which the most important consequences flow, says Mr. Mill the Utilitarian, is the necessity of labor for the supply of the fund of our necessities and conveniences. It is this which influences, perhaps more than any other, even our moral and religious character, and determines more than every thing else besides, the social

and political state of man. It must enter into the calculations of not only the political economist, but even of the metaphysician, the moralist, the theologian, and politician.

We shall therefore proceed at once to inquire what effect would be produced upon the slaves of the South in an economical point of view, by emancipation with permission to remain—whether the *voluntary* labor of the freedman would be as great as the *involuntary* labor of the slave? Fortunately for us this question has been so frequently and fairly subjected to the test of experience, that we are no longer left to vain and fruitless conjecture. Much was said in the legislature of Virginia about superiority of free labor over slave, and perhaps under certain circumstances this might be true; but in the present instance, the question is between the *relative amounts of labor which may be obtained from slaves before and after their emancipation*. Let us then first commence with our country, where it is well known to every body, that slave labor is vastly more efficient and productive, than the labor of free blacks.

Taken as a whole class, the latter must be considered the most worthless and indolent of the citizens of the United States. It is well known that throughout the whole extent of our Union, they are looked upon as the very *drones* and *pests* of society. Nor does this character arise from the disabilities and disfranchisement by which the law attempts to guard against them. In the non-slave-holding states, where they have been more elevated by law, this kind of population is in a worse condition and much more troublesome to society, than in the slave holding, and especially in the planting states. Ohio, some years ago, formed a sort of land of promise for this deluded class, to which many repaired from the slave holding states; and what has been the consequence? They have been most harshly expelled from that state and forced to take refuge in a foreign land. Look through all the Northern States, and mark the class upon whom the eye of the police is most steadily and constantly kept—see with what vigilance and care they are hunted down from place to place—and you cannot fail to see, that idleness and improvidence are at the root of all their misfortunes. Not only does the experience of our own country illustrate this great fact, but others furnish abundant testimony.

“The free negroes,” says Brougham, “in the West Indies, are, with a very few exceptions, chiefly in the Spanish and Portuguese settlements, equally averse to all sorts of labor which do not contribute to the supply of their immediate and most urgent wants. Improvident and careless of the future, they are not actuated by that principle which inclines more civilized men to equalize their exertions at all times, and to work after the necessities of the day have been procured, in order to make up for the possible deficiencies of the morrow; nor has their intercourse with the whites taught them to consider any gratification as worth obtaining, which cannot be procured by slight exertion of desultory and ca-



precious industry.”\* In the Report of the Committee of the Privy Council in Great Britain, in 1788, the most ample proof of this assertion is brought forward. In Jamaica and Barbadoes, it was stated, that free negroes were never known to work for hire, and they have all the vices of the slaves. Mr. Braithwait the agent for Barbadoes, affirmed, that if the slaves in that Island were offered their freedom on condition of working for themselves, not one-tenth of them would accept it. In all the other colonies the statements agree most accurately with those collected by the Committee of the Privy Council. “M. Malouet, who bore a special commission from the present government to examine the character and habits of the Maroons in Dutch Guiana, and to determine whether or not they were adapted to become hired laborers, informs us that they will only work one day in the week, which they find abundantly sufficient in the fertile soil and genial climate of the New World, to supply all the wants that they have yet learnt to feel. The rest of their time is spent in absolute indolence and sloth. ‘*Le repos,*’ says he, ‘*et l’oisivete sont devenus dans leur etat social leur unique passion.*’ He gives the very same description of the free negroes in the French colonies, although many of them possess lands and slaves. The spectacle, he tells us, was never yet exhibited of a free negro supporting his family by the culture of his little property. All other authors agree in giving the same description of free negroes in the British, French, and Dutch colonies, by whatever denomination they may be distinguished, whether Maroons, Caribes, free blacks, or fugitive slaves. The Abbe Raynal, with all his ridiculous fondness for savages, cannot, in the present instance, so far twist the facts according to his fancies and feelings, as to give a favorable portrait of this degraded race.”†

From these facts, it would require no great sagacity to come to the conclusion, that slave cannot be converted into free labor without imminent danger to the prosperity and wealth of the country where the change takes place—and in this particular it matters not what may be the color of the slave. In the commencement of the reign of Charles V., the representations of Las Casas determined Cardinal Ximenes, the prime minister of Charles, to make an experiment of the conversion of slave labor into free; and for this purpose pious commissioners were sent out, attended by Las Casas himself, for the purpose of liberating the Indian slaves in the New World. Now mark the result—these commissioners, chosen from the cloister, and big with real philanthropy, repaired to the Western World intent upon the great work of emancipation. “Their ears,” says Robertson, “were open to information from every quarter—they compared the different accounts which they received—and after a *mature* consideration of the

\* Brougham’s Colonial Policy, Book IV. sec. 1.

† Brougham’s Colonial Policy.

whole, they were fully satisfied that the state of the colony rendered it *impossible* to adopt the plan proposed by Las Casas, and recommended by the Cardinal. They plainly perceived, that no allurements were so powerful as to surmount the natural aversion of the Indians to any laborious effort, and that nothing but the authority of a master could compel them to work; and if they were not kept constantly under the eye and discipline of a superior, so great were their natural listlessness and indifference, that they would neither attend to religious instruction, nor observe those rights of Christianity which they had been already taught. Upon all these accounts the superintendents found it *necessary* to tolerate *repartimientos*, and to suffer the Indians to remain under subjection to their Spanish masters."\* In the latter part of his reign, Charles, with most imprudent and fatal decision, proclaimed the immediate and universal emancipation of all the Indians—and precisely what any man of reflection might have anticipated resulted. Their industry and freedom were found entirely incompatible. The alarm was instantly spread over the whole Spanish colonies. Peru, for a time lost to the monarchy, was only restored by the repeal of the obnoxious law; and in New Spain quiet was only preserved by a combination of the governor and subjects to suspend its execution. During the mad career of the French revolution, the slaves in the French colonies were for a time liberated, and even in Cayenne, where the experiment succeeded best in consequence of the paucity of slaves, it completely demonstrated the superiority of slave over free black labor; and generally the re-establishment of slavery was attended with the most happy consequences, and even courted by the negroes themselves, who became heartily tired of their short lived liberty. Of the great experiment which has been recently made in Colombia and Guatemala, we shall presently speak. We believe it has completely proved the same well established fact—the great superiority of slave over free negro labor.

Mr. Clarkson, in his pamphlet on Slavery, has alluded in terms of high commendation to an experiment made in Barbadoes, on Mr. Steele's plantation, which he contends has proved the safety and facility of the transition from slave to free labor. It seems Mr. Steele parcelled out his land among his negroes, and paid them wages for their labor. Now, we invite particularly the attention of our readers to the following extracts from the letter of Mr. Sealy, a neighbor of Mr. Steele, which will not only serve to establish our position, but afford an illustration of the melancholy fact, that the best of men cannot be relied on when under the influence of prejudice and passion. "It so happened," says Mr. Sealy, "that I resided on the nearest adjoining estate to Mr. Steele, and superintended the management of it myself for many years; I had therefore a better opportunity of forming an opinion than Mr. Clarkson can have—he has read Mr. Steele's account—I witness-

\* Robertson's America, vol. 1, p. 123.



sed the operations and effects of his plans. He possessed one of the largest and most seasonable plantations, in a delightful part of the island; with all these advantages his estate was never in as good order as those in the same neighborhood, and the crops were neither adequate to the size and resources of the estate, nor in proportion to those of other estates in the same part of the island. Finally, after an experiment of thirty years under Mr. Steele, and his executor, Mr. T. Bell, Mr. Steele's debts remained unpaid, and the plantation was sold by a decree of the Court of Chancery. After the debts and costs of suit were paid, very little remained out of £45,000 to go to the residuary legatees.

"It was very well known that the negroes rejoiced when the change took place, and thanked their God that they were relieved from the copyhold system. Such was the final result and success that attended this system, which has been so much eulogized by Mr. Clarkson. After the estate was sold and the system changed, I had equally an opportunity of observing the management, and certainly the manifest improvement was strong evidence in favor of the change. Fields which had been covered with bushes for a series of years, were brought into cultivation, and the number of pounds of sugar was in some years more than doubled under the new management; the provision crops also were abundant; consequently the negroes and stock were amply provided for." Again; the Attorney General of Barbadoes corroborates the statements of Mr. Sealy in the most positive terms: he says, "I was surprised to see it asserted lately in print, that his, Mr. Steele's plantation, succeeded well under that management. *I know it to be false.* It failed considerably; and had he lived a few years longer, he would have died not worth a *farthing*. Upon his death they reverted to the old system, to which the slaves readily and willingly returned; the plantation now succeeds, and the slaves are contented and happy, and think themselves much better off than under the copyhold system, for their wages would not afford them many comforts which they have now."\* (Upon this subject see No. LX. *London Quarterly. ART. West India Colonies.*) But a short time since, a highly respectable, and one of the most intelligent farmers of Virginia, informed us that he had actually tried, upon a much smaller scale, a similar experiment, and that it entirely failed; the

\* If it were not that the experiment would be too dangerous and costly, we would have no objection to see our slaves gratified with the enjoyment of freedom for a short time. There is no doubt but that they, like the Poles, Livonians, &c., and the negroes of Mr. Steele, would soon sigh again for a master's control, and a master's support and protection. It is a well known fact, that upon the borders of the free states, our slaves are not as much disposed to elope, as those who are situated farther off, and the reason is, they are near enough to witness the condition of the free black laborer, and they know it is far more wretched than their own. A citizen of the west, who is as well acquainted with this whole subject as any other in the state, or in the United States, informed us a short time since that the slaves of Botetourt and Montgomery, were much more disposed to elope and settle in Ohio than those of Cabel and Mason, situated on the borders—because the former are not so well acquainted with the real condition of the free black as the latter.

negroes, devoid of judgment and good management, became lazy and improvident, and every time one was so unfortunate as to fall sick, it immediately became necessary to support him. The whole plan soon disgusted the master, and proved that the free labor system would not answer for the best of our negroes; for those he tried were his best. Now these experiments were the more conclusive, because the master reserved the right of reimposing slavery upon them in case the experiment should not meet his approbation: every stimulus was thus offered, in case their freedom were really desirable, to work hard, but their natural indolence and carelessness triumphed over love of liberty, and demonstrated the fact, that free labor made out of slave, is the worst in the world.

So far we have adduced instances from among mixed populations alone. Some have imagined that the indolence of the liberated black in these cases, has arisen entirely from the presence of the whites, acknowledged to be the superior race both by law and custom; that consequently if the blacks could be freed from the degrading influence exerted by the mere pressure of the whites, they would quickly manifest more desire to accumulate and acquire all the industrious habits of the English operative or New-England laborer. Although this is foreign to our immediate object, which is to prove the inefficacy of free black labor in our country, where of course whites must always be present, we will nevertheless examine this opinion, because it has been urged in favor of that grand scheme of colonization recommended by some of the orators in the Virginia Legislature. Our own opinion is that the presence of the whites ought rather to be an incentive and encouragement to labor. Habits of industry are more easily acquired when all are busy and active around us. A man feels a spirit of industry and activity stir within him, from moving amongst such societies as those of Marseilles, Liverpool, and New-York, where the din of business and bustle assails his ears at every turn, whereas he soon becomes indolent and listless at Bath or Saratoga. Why then are our colored free men so generally indolent and worthless among the industrious and enterprising citizens of even our northern and New-England states? It is because there is an inherent and intrinsic cause at work, which will produce its effect under all circumstances. In the free black, the principle of idleness and dissipation triumphs over that of accumulation and the desire to better our condition; the animal part of the man gains the victory over the *moral*; and he consequently prefers sinking down into the listless inglorious repose of the brute creation, to rising to that energetic activity which can only be generated amid the multiplied, refined and artificial wants of civilized society. The very conception which nine slaves in ten have of liberty, is that of idleness and sloth with the enjoyment of plenty; and we are not to wonder that they should hasten to practice upon their theory so soon as liberated. But the experiment has been sufficiently tried



to prove most conclusively that the free black will work nowhere except by compulsion.

St. Domingo is often spoken of by philanthropists and schemers; the trial has there been made upon a scale sufficiently grand to test our opinions, and we are perfectly willing to abide the result of the experiment.

The main purpose of the mission of Consul General M'Kenzie to Hayti, by the British government, was to clear up this very question. We have made every exertion to procure the very valuable notes of that gentleman on Hayti, but have failed: we are therefore obliged to rely upon the eighty-ninth number of the *London Quarterly*, in one article of which, mention is made of the result of M'Kenzie's observations. "By all candid persons," says the Review, "the deliberate opinion which that able man has formed from careful observation, and the whole tenor of the evidence he has furnished, will be thought conclusive. Such invincible repugnance do the free negroes of that island feel to labor, that the system of the *code rural* of 1826, about the genuineness of which so much doubt was entertained a few years ago, is described as falling little short of the compulsion to which the slaves had been subjected previous to their emancipation. 'The consequences of delinquency,' he says, 'are heavy fine and imprisonment, and the provisions of the law are as despotic as can well be conceived.' He afterwards subjoins:—'Such have been the various modes for inducing or compelling labor for nearly forty years. It is next necessary to ascertain as far as it is practicable, the degree of success which has attended each; and the only mode with which I am acquainted, is to give the returns of the exported agricultural produce during the same period, marking, where it can be done, any accidental circumstance that may have had an influence.' He then quotes the returns at length, and observes—'There is one decided inference from the whole of these six returns, viz. the positive decrease of cane cultivation in all its branches—the diminution of other branches of industry, though not equally well marked, is no less certain, than that articles of spontaneous growth maintain, if not exceed, their former amount.' We may further add, that even the light labor required for trimming the planting coffee trees, has been so much neglected, that the export of coffee in 1830, falls short of that of 1829, by no less than 10,000,000 pounds." (*See London Quarterly Review, No. 89, Art. West India Question.*)

We subjoin here, to exhibit the facts asserted by Mr. M'Kenzie in a more striking manner, a tabular view of some of the principal exports from St. Domingo, during her subjection to France, and during the best years of the reigns of Toussaint, Dessalines, and Boyer,\* upon the authority of James Franklin on the Present State of Hayti.

\* It is known that under Boyer there was a union of the Island under one government.

Produce.	French.	Toussaint.	Dessalines.	Boyer.
	1791.	1802.	1804.	1822.*
Sugar,	163,405,220 lbs.	53,400,000 lbs.	47,600,000 lbs.	652,541 lbs.
Coffee,	68,151,180	34,370,000	31,000,000	35,117,834
Cotton,	6,286,126	4,050,000	3,000,000	891,950

There has been a gradual diminution of the amount of the products of Hayti since 1822. In 1825 the whole value of exports was about \$8,000,000, more than \$1,000,000 less than in 1822; and the revenue of the island was not equal to the public expenditure. Is not this fair experiment for forty years, under more favorable circumstances than any reasonable man had a right to anticipate, sufficient to convince and overwhelm the most sceptical as to the unproductiveness of slave labor converted into free labor?

But the British colony at Sierra Leone is another case in point, to establish the same position. Evidence was taken in 1830 before a committee of the House of Commons. Captain Bullen, R. N. stated that at Sierra Leone they gave the blacks a portion of land to cultivate, and they cultivate *just as much* as will keep them and not *an inch* more. Mr. Jackson, one of the judges of the mixed commission court, being asked—"Taking into consideration the situation of Sierra Leone, and the attention paid by government to promote their comfort, what progress have they made towards civilization or the comforts of civilized life?" makes this answer—"I should say very inadequate to the efforts which have been made to promote their comfort and civilization." Captain Spence, being asked a similar question, replies—"I have formed a very indifferent opinion as to their progress in industry. I have not been able to observe that they seem inclined to cultivate the country farther than vegetables and things of that kind. They do not seem inclined to cultivate for exportation. Their wants are very few, and they are very wild; and their wants are supplied by the little exertion they make. They have sufficient to maintain them in clothing and food, and these are all their wants."

Our own colony upon the coast of Africa proves too the same fact. It has been fed slowly and cautiously with emigrants, and yet Mr. Ashmun's intreaties to colonization-friends in the United States, to recollect that rice did not grow spontaneously in Africa, to send out *laboring men* of good character, &c., but too conclusively show, in spite of the colored and exaggerated statements of prejudiced friends, the great difficulty of making the negroes work in even Liberia;† and we have no doubt that if 6000 or 60,000

\*The other years give the returns for the French part of the Island, this for the Spanish and French, and ought therefore to be proportionably greater.

† We understand from most undoubted authority, that Mr. Barbour, a *negro gentleman* from Liberia, who lately visited the Virginia Springs for the purpose of re-establishing his health, which had given way under the deleterious influence of an African climate, bears most unequivocal testimony to the idleness of the blacks in Liberia—thinks the statements which have been generally given of the colony greatly exaggerated—considers it a partial failure at least; and laughs at the idea of its being made a recipient for the immense and rapidly increasing mass of our whole black population.



could be colonized annually in Africa, there would not be a more worthless and indolent race of people upon the face of the globe than our African colonies would exhibit.

We have now, we think, proved our position that slave labor in an economical point of view, is far superior to free negro labor; and have no doubt that if an immediate emancipation of the negroes were to take place, the whole southern country would be visited with an immediate general famine, from which the productive resources of all the other states of the Union could not deliver them.

It is now easy for us to demonstrate the second point in our argument—that the slave is not only *economically* but *morally* unfit for freedom. And first, idleness and consequent want, are of themselves sufficient to generate a catalogue of vices of the most mischievous and destructive character. Look to the penal prosecutions of every country, and mark the situation of those who fall victims to the laws. And what a frightful proportion do we find among the indigent and idle classes of society! Idleness generates want—want gives rise to temptation—and strong temptation makes the villain. The most appropriate prayer for frail imperfect man, is, “lead us not into temptation.” Mr. Archer of Virginia well observed in a speech before the Colonization Society, that “the free blacks were destined by an insurmountable barrier—to the want of occupation—thence to the want of food—thence to the distresses which ensue that want—thence to the settled deprivation which grows out of those distresses, and is nursed at their bosoms; and this condition *was not casually but fate*. The evidence was not speculation in political economy—it was geometrical demonstration.”

We are not to wonder that this class of citizens should be so depraved and immoral. An idle population will always be worthless; and it is a mistake to think that they are only worthless in the Southern States, where it is erroneously supposed the slavery of a portion of their race depresses them below their condition in the free states: on the contrary, we are disposed rather to think their condition better in the slave than the free states. Mr. Everett, in a speech before the Colonization Society, during the present year, says, “they (the free blacks) form in Massachusetts about one-seventy-fifth part of the population; *one-sixth of the convicts in our prisons are of this class*.” The average number of annual convictions in the state of Virginia, estimated by the late Governor Giles, from the penitentiary reports, up to 1829, is seventy-one for the whole population—making one in every sixteen thousand of the white population, one in every twenty-two thousand of the slaves, and one for every five thousand of the free colored people. Thus, it will be seen, that crimes among the free blacks are more than three times as numerous as among the whites, and four and a half times more numerous than among the slaves. But although the free blacks have thus much the largest proportion of crime to

answer for, yet the proportion is not so great in Virginia as in Massachusetts. Although they are relatively to the other classes more numerous, making the one-thirtieth of the population of the state, not one-eighth of the whole number of convicts are from among them in Virginia, while in Massachusetts there is one-sixth. We may infer, then, they are not so degraded and vicious in Virginia, a slave-holding state, as in Massachusetts, a non-slave-holding state. But there is one fact to which we invite particularly the attention of those philanthropists who have the elevation of southern slaves so much at heart—that *the slaves in Virginia furnish a much smaller annual proportion of convicts than the whites, and among the latter a very large proportion of the convicts consist of foreigners or citizens of other states.*

There is one disadvantage attendant upon free blacks, in the slave holding states, which is not felt in the non-slave-holding. In the former they corrupt the slaves, encourage them to steal from their masters by purchasing from them, and they are, too, a sort of moral conductor by which the slaves can better organize and concert plans of mischief among themselves.

So far we have been speaking of the evils resulting from mere idleness; but there are other circumstances which must not be omitted in an enumeration of the obstacles to emancipation. The blacks have now all the habits and feelings of slaves, the whites have those of masters; the prejudices are formed, and mere legislation cannot remove them. "Give me," said a wise man, "the formation of the habits and manners of a people, and I care not who makes the laws." Declare the negroes of the South free to-morrow, and vain will be your decree until you have prepared them for it; you depress, instead of elevating. The law would, in every point of view, be one of the most cruel and inhumane which could possibly be passed. The law would make them freemen, and custom or prejudice, we care not which you call it, would degrade them to the condition of slaves; and soon should we see, that "it is happened unto them, according to the true proverb, the dog is turned to his own vomit again, and the sow that was washed to her wallowing in the mire." "*Ne quid nimis*," should be our maxim; and we must never endeavor to elevate beyond what circumstances will allow. It is better that each one should remain in society in the condition in which he has been born and trained, and not to mount too fast without preparation. If a Virginia or South Carolina farmer wished to make his *overseer* perfectly miserable, he could not better do it, than by persuading him that he was not only a freeman, but a *polished gentleman* likewise, and consequently, induce him to enter his drawing room. He would soon sigh for the fields, and less polished but more suitable companions. Hence, in the southern states the condition of the free blacks is better than in the northern; in the latter he is told that he is a freeman and entirely equal to the white, and prejudice assigns to him a degraded station—light is furnished him by which to view



the interior of the fairy palace which is fitted up for him, and custom expels him from it, after the law has told him it was his. He consequently leads a life of endless mortification and disappointment. Tantalus like, he has frequently the cup to his lips, and imperious custom dashes it untasted from him. In the southern states, law and custom more generally coincide; the former makes no profession which the latter does not sanction, and consequently the free black has nothing to grieve and disappoint him.

We have already said, in the course of this review, that if we were to liberate the slaves, we could not, in fact, alter their condition—they would still be virtually slaves; talent, habit, and wealth, would make the white the master still, and the emancipation would only have the tendency to deprive him of those sympathies and kind feelings for the black which now characterize him. Liberty has been the heaviest curse to the slave, when given too soon; we have already spoken of the eagerness and joy with which the negroes of Mr. Steele, in Barbadoes, returned to a state of slavery. The east of Europe affords hundreds of similar instances. In 1791, Stanislaus Augustus, preparing a hopeless resistance to the threatened attack of Russia, in concert with the states, gave to Poland a constitution which established the complete personal freedom of the peasantry. The boon has never been recalled, and what was the consequence? “Finding,” (says Jones, in his volume on Rents,) “their dependence on their proprietors for subsistence remained undiminished, the peasants showed no very grateful sense of the boon bestowed upon them; they feared they should now be deprived of all claim upon the proprietors for assistance, when calamity or infirmity overtook them. It is only since they have discovered that the *connexion* between them and the owners of the estates on which they reside is *little altered in practice*, and that their old masters very generally *continue*, from expediency or humanity, the occasional aid they formerly lent them, that they have become *reconciled* to their new character of freemen.” “The Polish boors are, therefore, in *fact* still *slaves*,” says Burnett, in his “View of the Present State of Poland,” “and relatively to their political existence, absolutely subject to the will of their lord as in all the barbarism of the feudal times.”—“I was once on a short journey with a nobleman, when we stopped to bait at a farm-house of a village. The peasants got intelligence of the presence of their lord, and assembled in a body of twenty or thirty to prefer a petition to him. I was never more struck with the appearance of these poor wretches, and the *contrast* of their condition with that of their master; I stood at a distance, and perceived that he did not yield to their supplication. When he dismissed them, I had the curiosity to inquire the object of their petition; and he replied, that they had begged for an increased allowance of land, on the plea that what they had was insufficient for their support. He added, ‘I did not grant it them because their present allotment is the usual quantity, and as it has sufficed hith-

erto, so I know it will in time to come. Besides,' said he, 'if I give them more, I well know that it will not in *reality* better their circumstances.' Poland does not furnish a man of more humanity than the one who rejected this apparently reasonable petition; but it must be allowed that he had reasons for what he did. Those degraded and wretched beings, instead of hoarding the small surplus of their absolute necessities, are almost universally *accustomed to expend* it in that abominable spirit, which they call *schnaps*. It is incredible what quantities of this pernicious liquor are drunk by the peasant men and women. The first time I saw any of these withered creatures was at Dantzic. I was prepared, by printed accounts, to expect a sight of singular wretchedness; but I shrunk involuntarily from the sight of the reality. Some involuntary exclamation of surprise, mixed with compassion, escaped me; a thoughtless and a feelingless person (which are about the same thing) was standing by, 'Oh, sir,' says he, 'you will find plenty of such people as these in Poland; and you may strike them and kick them, or do what you please with them, and they will never resist you: they dare not.' Far be it from me to ascribe the feelings of this man to the more cultivated and humanized Poles; but such incidental and thoughtless expressions betray but too sensibly the general state of feeling which exists in regard to these oppressed men." The traveller will now look in vain, throughout our slaveholding country, for such misery as is here depicted; and in spite of all the tales told by gossiping travellers, he will find no master so relentless as the Polish proprietor, and no young man so "thoughtless" and "feelingless" as the young Pole above mentioned. But liberate our slaves, and in a very few years we shall have all these horrors and reproaches added unto us.

In Livonia, likewise, the serfs were prematurely liberated; and mark the consequences. Von Halen, who travelled through Livonia in 1819, observes, "along the high-road through Livonia are found, at short distances, filthy public houses, called in the country *Rhatcharuas*, before the doors of which are usually seen a multitude of wretched carts and sledges belonging to the peasants, who are so addicted to brandy and strong liquors\* that they spend whole hours in those places. Nothing proves so much the state of barbarism in which those men are sunk, as the manner in which they received the decree issued about this time. These savages, unwilling to depend upon their own exertions for support, *made all the resistance in their power* to that decree, the execution of which was at length *intrusted to an armed force*." The Livonian peasants, therefore, received their new privileges yet more ungraciously than the Poles, though accompanied with the gift of property and secure means of subsistence, if they *chose to exert themselves*. By an edict of Maria Theresa, called, by the Hungarians, the

\* We believe, in case of an emancipation of our blacks, that drunkenness would be among them like the destroying angel.



ubarium, personal slavery and attachment to the soil were abolished, and the peasants declared to be "*homines liberæ transmigrationis*;" and yet, says Jones, "the authority of the owners of the soil over the persons and property of their tenantry has been very imperfectly abrogated; the necessities of the peasants oblige them frequently to resort to their landlords for loans of food; they become laden with heavy debts, to be discharged by labor.\* The proprietors retain the right of employing them at pleasure, paying them, in lieu of subsistence, about one-third of the actual value of their labor; and lastly, the administration of justice is still in the hands of the nobles; and one of the first sights which strikes a foreigner, on approaching their mansions, is a sort of low framework of posts, to which a serf is tied when it is thought proper to administer the discipline of the whip, for offences which do not seem grave enough to demand a formal trial."

Let us for a moment revert to the black republic of Hayti, and we shall see that the negroes have gained nothing by their bloody revolution. Mr. Franklin, who derives his information from personal inspection, gives the following account of the present state of the island:—"Oppressed with the weight of an overwhelming debt, contracted without an equivalent, with an empty treasury, and destitute of the ways and means for supplying it; the soil almost neglected, or at least very partially tilled; without commerce or credit. Such is the present state of the republic; and it seems almost impossible that, under the system which is now pursued, there should be any melioration of its condition, or that it can arrive at any very high state of improvement. Hence, there appears every reason to apprehend that it *will recede into irrecoverable insignificance, poverty, and disorder.*" (p. 265.) And the great mass of the Haytiens are virtually in a state of as abject slavery as when the island was under the French dominion. The government soon found it absolutely necessary to establish a system of compulsion in all respects as bad, and more intolerable, than when slavery existed. The *Code Henri* prescribed the most mortifying regulations, to be obeyed by the laborers of the island; *work was to commence at day light, and continue uninterruptedly till eight o'clock; one hour was then allowed to the laborer to breakfast on the spot; at nine work commenced again and continued until twelve, when two hours repose was given to the laborer; at two he commenced again, and worked until night.* All these regulations were enforced by severe penal enactments. Even Toussaint l'Ouverture, who is supposed to have had the welfare of the negroes as much at heart as any other ruler in St. Domingo, in one of his proclamations in the ninth year of the French republic,

\* Almost all our free negroes will run in debt to the full amount of their credit. "I never knew a free negro," says an intelligent correspondent, in a late letter, "who would not contract debts, if allowed, to greater amount than he could pay; and those whom I have suffered to reside on my land, although good mechanics, have been generally so indolent and improvident as to be in my debt at the end of the year, for provisions, brandy, &c., when I would allow it."

peremptorily directs—"all *free laborers*, men and women, now in a state of idleness, and living in towns, villages, and on other plantations than those to which they belong, with the intention to evade work, even those of both sexes who had not been employed in field labor since the revolution, *are required to return immediately* to their respective plantations." And in article seven, he directs, that "the *overseers and drivers* of every plantation shall make it their business to inform the commanding officer of the district in regard to the conduct of the laborers *under their management*, as well as those who shall absent themselves from their plantations *without a pass*, and of those who residing on the plantations shall refuse to work; they shall be forced to go to the labor of the field, and if they prove obstinate, they shall be arrested and carried before the military commandant, in order to suffer the punishment above prescribed, according to the exigence of the case, the punishment being fine and imprisonment." And here is the boasted freedom of the negroes of St. Domingo;—the appalling vocabulary of "overseer," "driver," "pass," &c., is not even abolished. Slavery to the government and its military officers is substituted for private slavery; the black master has stepped into the shoes of the white; and we all know that he is the most cruel of masters, and more dreaded by the negro than any of the ten plagues of Egypt. We are well convinced, that there is not a single negro in the commonwealth of Virginia who would accept such *freedom*; and yet the happiest of the human race are constantly invited to sigh for such freedom, and to sacrifice all their happiness in the vain wish. But it is not necessary further to multiply examples; enough has already been said, we hope, to convince the most sceptical of the great disadvantage to the slave himself, of freedom, when he is not prepared for it. It is unfortunate, indeed, that prejudiced and misguided philanthropists so often assert as *facts*, what, on investigation, turns out not only false, but even hostile to the very theories which they are attempting to support by them. We have already given one example of this kind of deception, in relation to Mr. Steele. We will now give another.

"In the year 1760, the Chancellor Zamoyski," says Burnett, "enfranchised six villages in the Palatinate of Masovia. This experiment has been much vaunted by Mr. Coxe, as having been attended with all the good effects desired; and he asserts that the chancellor had, in consequence, enfranchised the peasants on all his estates. *Both of these assertions are false.* I inquired particularly of the son of the present Count Zamoyski respecting these six villages, and was grieved to learn, that the experiment had completely failed. The count said, that within a few years he had sold the estate; and added, I was glad to get rid of it from the trouble the peasants gave me. These degraded beings, on receiving their freedom, were overjoyed at they knew not what, having no distinct comprehension of what freedom meant; but merely a



rude notion that they may now do what they like.\* They ran into every species of excess and extravagance which their circumstances admitted. Drunkenness, instead of being occasional, became almost perpetual; riot and disorder usurped the place of quietness and industry; the necessary labor suspended, the lands were worse cultivated than before; the small rents required of them they were often unable to pay." (*Burnett's View of Poland*, p. 105.) Indeed, it is a calamity to mankind, that zealous and overheated philanthropists will not suffer the truth to circulate, when believed hostile to their visionary schemes. Such examples as the foregoing ought to be known and attended to. They would prevent a great deal of that impatient silly action which has drawn down such incalculable misery, so frequently, upon the human family. "There is a time for all things," and nothing in this world should be done before its time. An emancipation of our slaves would check at once that progress of improvement, which is now so manifest among them. The whites would either gradually withdraw, and leave whole districts or settlements in their possession, in which case they would sink rapidly in the scale of civilization; or the blacks, by closer intercourse, would bring the whites down to their level. In the contact between the civilized and uncivilized man, all history and experience show, that the former will be sure to sink to the level of the latter. In these cases it is always easier to descend than ascend, and nothing will prevent the *facilis descensus* but slavery.

The great evil, however, of these schemes of emancipation, remains yet to be told. They are admirably calculated to excite plots, murders, and insurrections; whether gradual or rapid in their operation, this is the inevitable tendency. In the former case, you disturb the quiet and contentment of the slave who is left unemancipated; and he becomes the midnight murderer to gain that fatal freedom whose blessings he does not comprehend. In the latter case, want and invidious distinction will prompt to revenge. Two totally different races, as we have before seen, cannot easily harmonize together; and although we have no idea that any organized plan of insurrection or rebellion can ever secure for the black the superiority, even when free,† yet his idleness will produce want and worthlessness, and his very worthlessness and degradation will stimulate him to deeds of rapine and vengeance; he will oftener engage in plots and massacres, and thereby draw down on his devoted head the vengeance of the provoked whites. But one limited massacre is recorded in Virginia history; let her liberate her slaves, and every year you would hear of insurrections and plots, and every day would perhaps record a murder; the

\* Precisely such a notion as that entertained by the slaves of this country and the West Indies.

† Power can never be dislodged from the hands of the intelligent, the wealthy, and the courageous, by any plans that can be formed by the poor, the ignorant, and the habitually subservient; history scarce furnishes such an example.

melancholy tale of Southampton would not alone blacken the page of our history, and make the tender mother shed the tear of horror over her babe as she clasped it to her bosom; others of a deeper die would thicken upon us; those regions where the brightness of polished life has dawned and brightened into full day, would relapse into darkness, thick and full of horrors, and in those dark and dismal hours, we might well exclaim, in the shuddering language of the poet—

“Nox atra cava circumvolat umbra  
 Quis cladem illius noctis, quis funera fando  
 Explicit? \* \* \* \*  
 Urbs antiqua ruit, multos dominata per annos  
 Plurima perque vias sternuntur inertia passim  
 Corpora per que domos, et religiosa deorum  
 Limina. \* \* Crudelis ubique  
 Luctus ubique pavor, et plurima mortis imago.”

Colombia and Guatemala have tried the dangerous experiment of emancipation, and we invite the attention of the reader to the following dismal picture of the city of Guatemala, drawn by the graphic pencil of Mr. Dunn—“With Lazaroni in rags and filth, a *colored population drunken and revengeful*, her females licentious and her males shameless, she *ranks as a true child of that accursed city*, which still remains as a living monument of the fulfilment of prophesy and the forbearance of God, the hole of every foul spirit, the cage of every unclean and hateful bird. The pure and simple sweets of domestic life, with its thousand tendernesses and its gentle affections, are here exchanged for the feverish joys of a dissipated hour;—and the peaceful home of love is converted into a theatre of mutual accusations and recriminations. This leads to violent excesses; *men carry a large knife in a belt, women one fastened in the garter. Not a day passes without murder*; on fast days and on Sundays, the average number killed is from four to five. From the number admitted in the hospital of St. Juan de Dios, it appears that in the year 1827, near fifteen hundred were stabbed, of whom from three to four hundred died.”\* Thank Heaven no such scenes as these have yet been witnessed in our country. From the day of the arrival of the negro slaves upon our coast in the Dutch vessel, up to the present hour, a period of more than two hundred years, there have not perished in the whole southern country by the hands of slaves, a number of whites equal to the average annual stabbings in the city of Guatemala, containing a population of 30,000 souls!! “Nor is the freed African,” says Dunn, “one degree raised in the scale—*under fewer restraints, his vices display themselves more disgustingly; insolent and proud, indolent and a liar*, he imitates only the vices of his superiors, and to the catalogue of his former crimes adds drunkenness and theft.” Do not all these appalling examples but too eloquently tell the consequences of emancipation, and bid us

\* See Dunn's Sketches of Guatemala, in 1827 and 1828, pp. 95, 96, and 97.



well beware how we enter on any system which will be almost certain to bring down ruin and degradation on both the whites and the blacks?

But in despite of all the reasoning and illustrations which can be urged, the example of the northern states of our confederacy and the west of Europe afford, it is thought by some, conclusive evidence of the facility of changing the slave into the freeman. As to the former, it is enough to say that paucity of numbers,\* uncongenial climate, and the state of agriculture to the north, together with the great demand of slaves to the south, alone accomplished the business. In reference to the west of Europe, it was the rise of the towns, the springing up of a middle class, and a change of agriculture, which gradually and silently effected the emancipation of the slaves, in a great measure through the operation of the selfish principle itself. Commerce and manufactures arose in the western countries, and with them sprang up a middle class of freemen, in the cities and the country too, which gradually and imperceptibly absorbed into its body all the slaves. But for this middle class, which acted as the *absorbent*, the slaves could not have been liberated with safety or advantage to either party. Now, in our southern country, there is no body of this kind to become the *absorbent*, nor are we likely to have such a body, unless we look into the vista of the future, and imagine a time when the south shall be to the north, what England now is to Ireland, and will consequently be *overrun* with northern laborers, underbidding *the means of subsistence* which will be furnished to the negro: then *perhaps* such a laboring class, devoid of all pride and habits of lofty bearing, *may* become a proper *recipient* or *absorbent* for emancipated slaves. But even then we fear the effects of difference of color. The slave of Italy or France could be emancipated or escape to the city, and soon all records of his former state would perish, and he would gradually sink into the mass of freemen around him. But unfortunately the emancipated black carries a mark which no time can erase; he forever wears the indelible symbol of his inferior condition; *the Ethiopian cannot change his skin, nor the leopard his spots.*

In Greece and Rome, and we imagine it was so during the feudal ages, the domestic slaves were frequently among the most learned, virtuous, and intelligent members of society. Terence, Phædrus, Esop, and Epictetus were all slaves. They were frequently taught all the arts and sciences, in order that they might be more valuable to their masters. "Seneca relates," says Wallace in his *Numbers of Mankind*, "that Calvisius Labinus had many anagnostæ slaves, or such as were learned and could read to their masters, and that none of them were purchased under £807 5s. 10d. According to Pliny, Daphnis the grammarian cost £5651 10s. 10d. Ros-

\* "There are more free negroes and mulattoes, said Judge Tucker in 1803, in Virginia alone, than are to be found in the four New-England states, and Vermont in addition to them." (*Tucker's Blackstone*, vol. 1. Part 2nd. p. 66, foot note.)

cius the actor would gain yearly £4036 9s. 2d. A morio, or fool, was sold for £161 9s. 2d." (*Wallace on the Numbers of Mankind*, page 142.) There was no obstacle, therefore, to the emancipation of such men as these (except as to the fool,) either on the score of color, intelligence, habits, or any thing else—the *body* of freemen could readily and without difficulty or danger absorb them. Not so now—nor ever will it be in all time to come, with our blacks. With these remarks, we shall close our examination of the plans by which it has been or may be proposed to get rid of slavery. If our arguments are sound, and reasonings conclusive, we have shown they are all wild and visionary, calculated to involve the south in ruin and degradation: and we now most solemnly call upon the statesman and the patriot, the editor and the philanthropist, to pause, and consider well, before they move in this dangerous and delicate business. But a few hasty and fatal steps in advance, and the work may be irretrievable. For Heaven's sake then let us pause, and recollect, that on this subject, so pregnant with the safety, happiness, and prosperity of millions, we shall be doomed to realize the fearful motto, "*nulla vestigia retrorsum.*"

There are some who, in the plenitude of their folly and recklessness, have likened the cause of the blacks to Poland and France, and have *darkly hinted* that the same aspirations which the generous heart breathes for the cause of bleeding, suffering Poland, and revolutionary France, must be indulged for the *insurrectionary blacks*. And has it come at last to this? that the hellish plots and massacres of Dessalines, Gabriel, and Nat Turner, are to be compared to the noble deeds and devoted patriotism of Lafayette, Kosciusko, and Schrynecki? and we suppose the same logic would elevate Lundi and Garrison to Niches in the Temple of Fame, by the side of Locke and Rousseau. There is an absurdity in this conception, which so outrages reason and the most common feelings of humanity, as to render it unworthy of serious patient refutation. But we will, nevertheless, for a moment examine it, and we shall find, on their own principles, if such reasoners have any principles, that their conception is entirely fallacious. The true theory of the right of revolution we conceive to be the following: no men or set of men are justifiable in attempting a revolution which must *certainly* fail; or if successful must produce *necessarily* a much worse state of things than the pre-existent order. We have not the right to plunge the dagger into the monarch's bosom merely because he is a monarch—we must be sure it is the *only means* of dethroning a tyrant and giving peace and happiness to an aggrieved and suffering people. Brutus would have had no right to kill Cæsar if he could have foreseen the consequences. If France and Poland had been peopled with a race of serfs and degraded citizens, totally unfit for freedom and self-government, and Lafayette and Kosciusko could have known



it, they would have been *parricides* instead of *patriots*, to have roused such ignorant and unhappy wretches to engage in a revolution whose object they could not comprehend, and which would inevitably involve them in all the horrors of relentless carnage and massacre. No man has ever yet contended that the blacks could gain their liberty and an ascendancy over the whites by wild insurrections; no one has ever imagined that they could do more than bring down, by their rash and barbarous achievements, the vengeance of the infuriated whites upon their devoted heads. Where then is the analogy to Poland and to France, lands of generous achievement, of learning, and of high and noble purposes, and with people capable of self-government? We shall conclude this branch of our subject with the following splendid extract from a speech of Mr. Canning, which should at least make the rash legislator more distrustful of his specifics.

“In dealing with a negro we must remember that we are dealing with a being possessing the form and strength of a man, but the intellect only of a child. To turn him loose in the manhood of his physical passions, but in the infancy of his uninstructed reason, would be to raise up a creature resembling the splendid fiction of a recent romance; the hero of which constructs a human form with all the physical capabilities of man, and with the thews and sinews of a giant, but being unable to impart to the work of his hands a perception of right and wrong, he finds too late that he has only created a more than mortal power of doing mischief, and himself recoils from the monster which he has made. What is it we have to deal with? is it an evil of yesterday’s origin? with a thing which has grown up in our time—of which we have watched the growth—measured the extent—and which we have ascertained the means of correcting or controlling? No, we have to deal with an evil which is the growth of centuries and of tens of centuries; which is almost coeval with the deluge; which has existed under different modifications since man was man. Do gentlemen, in their passion for legislation, think, that after only thirty years discussion, they can now at once manage as they will the most unmanageable perhaps of all subjects? or do we forget, sir, that in fact not more than thirty years have elapsed since we first presumed to approach even the outworks of this great question? Do we, in the ardor of our nascent reformation, forget that during the ages which this system has existed, no preceding generation of legislators has ventured to touch it with a reforming hand; and have we the vanity to flatter ourselves that we can annihilate it at a blow? No Sir, No!—If we are to do good it is not to be done by sudden and violent measures.” Let the warning language of Mr. Canning be attended to in our legislative halls, and all rash and intemperate legislation avoided. We will now proceed to the last division of our subject, and examine a little into the injustice and evils of slavery, with the view of ascertaining if we are really exposed

to those dangers and horrors which many seem to anticipate in the current of time.

### *III. Injustice and Evils of Slavery.*

1st. It is said slavery is wrong, in the *abstract* at least, and contrary to the spirit of Christianity. To this we answer as before, that any question must be determined by its circumstances, and if, as really is the case, we cannot get rid of slavery without producing a greater injury to both the masters and slaves, there is no rule of conscience or revealed law of God which *can* condemn us. The physician will not order the spreading cancer to be extirpated although it will eventually cause the death of his patient, because he would thereby hasten the fatal issue. So if slavery had commenced even contrary to the laws of God and man, and the sin of its introduction rested upon our hands, and it was even carrying forward the nation by slow degrees to final ruin—yet if it were *certain* that an attempt to remove it would only hasten and heighten the final catastrophe—that it was in fact a “*vulnus immedicabile*” on the body politic, which no legislation could safely remove, then, we would not only not be bound to attempt the extirpation, but we would stand guilty of a high offence in the sight of both God and man, if we should rashly make the effort. But the original sin of introduction rests not on our heads, and we shall soon see that all those dreadful calamities which the false prophets of our day are pointing to, will never in all probability occur. With regard to the assertion, that slavery is against the spirit of Christianity, we are ready to admit the general assertion, but deny most positively that there is any thing in the Old or New Testament, which would go to show that slavery, when once introduced, ought at all events to be abrogated, or that the master commits any offence in holding slaves. The children of Israel themselves were slave holders, and were not condemned for it. All the patriarchs themselves were slave holders—Abraham had more than three hundred—Isaac had a “*great store*”<sup>\*</sup> of them;—and even the patient and meek Job himself, had “*a very great household*.” When the children of Israel conquered the land of Canaan, they made one whole tribe “*hewers of wood and drawers of water*,” and they were at that very time under the special guidance of Jehovah; they were permitted expressly to purchase slaves of the heathens, and keep them as an inheritance for their posterity—and even the Children of Israel might be enslaved for six years.<sup>1</sup> When we turn to the New Testament, we find not one single passage at all calculated to disturb the conscience of an honest slave holder. No one can read it without seeing and admiring that the meek and humble Saviour of the world in no instance meddled with the established institutions of mankind—he

<sup>\*</sup> “And the man (Isaac) waxed great and went forward, and grew until he became very great; for he had possession of flocks, and possession of herds, and *great store of servants*.” (Gen. chap. 26.)



came to save a fallen world, and not to excite the black passions of men and array them in deadly hostility against each other. From no one did he turn away; his plan was offered alike to all—to the monarch and the subject—the rich and the poor—the master and the slave. He was born in the Roman world, a world in which the most galling slavery existed, a thousand times more cruel than the slavery in our own country—and yet he no where encourages insurrection—he nowhere fosters discontent—but exhorts *always* to implicit obedience and fidelity. What a rebuke does the practice of the Redeemer of mankind imply upon the conduct of some of his nominal disciples of the day, who seek to destroy the contentment of the slaves, to rouse their most deadly passions, to break up the deep foundations of society, and to lead on to a night of darkness and confusion! “Let every man (says Paul,)—abide in the same calling wherein he is called. Art thou called *being* a servant? care not for it; but if thou mayest be made free use *it* rather.” (1 *Corinthians*, vii. 20, 21.) Again; “Let as many servants as are under the yoke, count their own masters worthy of all honor, that the name of God and his doctrines be not blasphemed; and they that have believing masters, let them not despise *them*, because they are brethren, but rather do them service, because they are faithful and beloved partakers of the benefit. These things teach and exhort.” (1 *Tim.* vi. 1, 2.) Servants are even commanded in Scripture to be faithful and obedient to unkind masters. “Servants, (says Peter,) be subject to your masters with all fear; not only to the good and gentle, but to the froward. For what glory is it if when ye shall be buffeted for your faults ye take it patiently; but if when ye do well and suffer for it, ye take it patiently, this is acceptable with God.” (1 *Peter*, ii. 18, 20.) These, and many other passages in the New Testament, most convincingly prove, that slavery in the Roman world was nowhere charged as a fault or crime upon the holder, and everywhere is the most implicit obedience enjoined.\*

We beg leave, before quitting this topic, to address a few remarks to those who have conscientious scruples about the holding of slaves, and therefore consider themselves under an obligation to break all the ties of friendship and kindred—dissolve all the associations of happier days, to flee to a land where this evil does not exist. We cannot condemn the conscientious actions of mankind, but we must be permitted to say, that if the assumption even of these pious gentlemen be correct, we do consider their conduct as very unphilosophical, and we will go further still, we look upon it as even immoral upon their own principles. Let us admit that slavery is an evil, and what then? why it has been entailed upon us by no fault of ours, and must we shrink from the charge which devolves upon us, and throw the slave in consequence into the hands of those who have no scruples of conscience—those who will not perhaps treat him

\* See *Ephesians*, vi. 5, 9, *Titus*, ii. 9, 10. *Philemon*. *Colossians*, iii, 22, and iv. 1.

so kindly? No! this is not philosophy, it is not morality; we must recollect that the unprofitable man was thrown into utter darkness. To the slave-holder has truly been intrusted the five talents. Let him but recollect the exhortation of the Apostle—"Masters, give unto your servants that which is just and equal; knowing that ye also have a master in Heaven;" and in the final day he shall have nothing on this score with which his conscience need be smitten, and he may expect the welcome plaudit—"Well done thou good and faithful servant, thou hast been faithful over a few things, I will make thee ruler over many things; enter thou into the joy of the Lord." Hallam, in his History of the Middle Ages, says, that the greatest moral evil flowing from monastic establishments, consisted in withdrawing the good and religious from society, and leaving the remainder unchecked and unrestrained in the pursuit of their vicious practices. Would not such principles as those just mentioned lead to a similar result? We cannot, therefore, but consider them as *whining and sickly*, and highly unphilosophical and detrimental to society.

2dly. *But it is further said that the moral effects of slavery are of the most deleterious and hurtful kind;* and as Mr. Jefferson has given the sanction of his great name to this charge, we shall proceed to examine it with all that respectful deference to which every sentiment of so pure and philanthropic a heart is justly entitled.

"The whole commerce between master and slave," says he, "is a perpetual exercise of the most boisterous passions—the most unremitting despotism on the one part, and degrading submission on the other. Our children see this, and learn to imitate it, for man is an imitative animal—this quality is the germ of education in him. From his cradle to his grave, he is learning what he sees others do. If a parent had no other motive, either in his own philanthropy or self love, for restraining the intemperance of passion towards his slave, it should always be a sufficient one that his child is present. But generally it is not sufficient. The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, gives a loose to his worst of passions, and thus nursed, educated, and daily exercised in the worst of tyranny, cannot but be stamped by it with odious peculiarities."\* Now we boldly assert that the fact does not bear Mr. Jefferson out in his conclusions. He has supposed the master in a continual passion—in the constant exercise of the most odious tyranny, and the child, a creature of imitation, looking on and learning. But is not this master sometimes kind and indulgent to his slaves? does he not mete out to them, for faithful service, the reward of his cordial approbation? Is it not his interest to do it? and when thus acting humanely, and speaking kindly, where is the child, the creature of imitation, that he does not look on and learn? We may rest assured, in this intercourse between a good master

\* Jefferson's Notes on Virginia.



and his servant, more good than evil *may* be taught the child, the exalted principles of morality and religion may thereby be sometimes indelibly inculcated upon his mind, and instead of being reared a selfish contracted being, with nought but self to look to—he acquires a more exalted benevolence, a greater generosity and elevation of soul, and embraces for the sphere of his generous actions a much wider field. Look to the slave holding population of our country, and you every where find them characterized by noble and elevated sentiment, by humane and virtuous feelings. We do not find among them that cold, contracted, calculating *selfishness*, which withers and repels every thing around it, and lessens or destroys all the multiplied enjoyments of social intercourse. Go into our national councils, and ask for the most generous, the most disinterested, the most conscientious, and the least unjust and oppressive in their principles, and see whether the slave holder will be past by in the selection. Edwards says that slavery in the West Indies seems to awaken the laudable propensities of our nature, such as “frankness, sociability, benevolence, and generosity. In no part of the globe is the virtue of hospitality more prevalent than in the British sugar islands. The gates of the planter are always open to the reception of his guests—to be a stranger is of itself a sufficient introduction.”

Is it not a fact, known to every man in the South, that the most *cruel masters* are those who have been unaccustomed to slavery. It is well known that northern gentlemen who marry southern heiresses, are much severer masters than southern gentlemen.\* And yet, if Mr. Jefferson’s reasoning were correct, they ought to be much milder: in fact, it follows from his reasoning, that the authority which the father is called on to exercise over his children, must be seriously detrimental; and yet we know that this is not the case; that on the contrary, there is nothing which so much humanizes and softens the heart, as this *very authority*; and there are none, even among those who have no children themselves, so disposed to pardon the follies and indiscretion of youth, as those who have seen most of them, and suffered greatest annoyance. There may be many cruel relentless masters, and there are unkind and cruel fathers too; but both the one and the other make all those around them shudder with horror. We are disposed to think that their example in society tends rather to strengthen, than weaken the principle of benevolence and humanity.

Let us now look a moment to the slave, and contemplate *his* position. Mr. Jefferson has described him as hating, rather than loving his master, and as losing, too, all that *amor patriæ* which characterizes the true patriot. We assert again, that Mr. Jefferson is not borne out by the fact. We are well convinced that there is no-

\* A similar remark is made by Ramsay, and confirmed by Bryan Edwards, in regard to the West Indies. “Adventurers from Europe are universally more cruel and morose towards the slaves, than the Creole or native West Indian.” (*Hist of W. I. Book 4. Chap. 1.*)

thing but the mere relations of husband and wife, parent and child, brother and sister, which produce a closer tie, than the relation of master and servant.\* We have no hesitation in affirming, that throughout the whole slave holding country, the slaves of a good master, are his warmest, most constant, and most devoted friends; they have been accustomed to look up to him as their supporter, director and defender. Every one acquainted with southern slaves, knows that the slave rejoices in the elevation and prosperity of his master; and the heart of no one is more gladdened at the successful debut of young master or miss on the great theatre of the world, than that of either the young slave who has grown up with them, and shared in all their sports, and even partaken of all their delicacies—or the aged one who has looked on and watched them from birth to manhood, with the kindest and most affectionate solicitude, and has ever met from them, all the kind treatment and generous sympathies of feeling tender hearts. Judge Smith in his able speech on Foote's Resolutions in the Senate said, in an emergency he would rely upon his own slaves for his defence—he would put arms into their hands, and he had no doubt they would defend him faithfully. In the late Southampton insurrection, we know that many actually convened their slaves, and armed them for defence, although slaves were here the cause of the evil which was to be repelled. We have often heard slaveholders affirm, that they would sooner rely upon their slaves for fidelity and attachment in the hour of danger and severe trial, than on any other equal number of individuals; and we all know, that the son or daughter, who has been long absent from the paternal roof, on returning to the scenes of infancy, never fails to be greeted with the kindest welcome and the most sincere and heartfelt congratulations from those slaves among whom he has been reared to manhood.

Gilbert Stuart, in his *History of Society*, says that the time when the vassal of the feudal ages was most faithful, most obedient, and most interested in the welfare of his master, was precisely when his dependance was most complete, and when, consequently, he relied upon his lord for every thing. When the feudal tenure was gradually changing, and the law was interposing between landlord and tenant, the close tie between them began to dissolve, and with it, the kindness on one side, and the affection and gratitude on the other, waned and vanished. From all this, we are forced to draw one important inference—that it is dangerous to the happiness and well being of the slave, for either the imprudent philanthropist to attempt to interpose too often, or the rash legislator to obtrude his regulating edicts, between master and slave. They only serve to render the slave more intractable and unhappy, and the master more cruel and unrelenting. The British West India Islands form at this moment a most striking illustration of this remark; the law has inter-

\* There are hundreds of slaves in the Southern country, who will desert parents, wives or husbands, brother and sister, to follow a kind master—so strong is the tie of master and slave.



posed between master and servant, and the slave has been made idle and insolent, and consequently worthless; a vague and irrational idea of liberty has been infused into his mind; he has become restless and unhappy; and the planters are deserting the islands, because the very law itself, is corrupting and ruining the slave. The price of slaves it is said, since the passage of those laws, has fallen 50 per cent. and the rapid declension of the number of slaves proves that their condition has been greatly injured, instead of benefitted. This instance is fraught with deep instruction to the legislator, and should make him pause. And we call upon the reverend clergy, whose examples should be pure, and whose precepts should be fraught with wisdom and prudence, to beware, lest in their zeal for the black, they suffer too much of the passion and prejudice of the human heart to mingle with those pure principles by which they should be governed. Let them beware of "what spirit they are of." "No sound," says Burke, "ought to be heard in the church, but the healing voice of Christian charity. Those who quit their proper character, to assume what does not belong to them, are for the most part ignorant of the character they assume, and of the character they leave off. Wholly unacquainted with the world in which they are so fond of meddling, and inexperienced in all its affairs, on which they pronounce with so much confidence, they have nothing of politics but the *passions* they excite. Surely the church is a place where one day's truce ought to be allowed to the dissensions and animosities of mankind."

In the debate in the Virginia Legislature, no speaker *insinuated even*, we believe, that the slaves in Virginia were not treated kindly; and all, too, agreed that they were most abundantly fed; and we have no doubt but that they form the happiest portion of our society. A merrier being does not exist on the face of the globe, than the negro slave of the United States. *Even* Captain Hall himself, with his thick "crust of prejudice," is obliged to allow that they are happy and contented, and the master much less cruel than is generally imagined. Why then, since the slave is happy, and happiness is the great object of all animated creation, should we endeavor to disturb his contentment by infusing into his mind a vain and indefinite desire for liberty—a something which he cannot comprehend, and which must inevitably dry up the very sources of his happiness.

The fact is that all of us, and the great author of the Declaration of Independence is like us in this respect, are too prone to judge of the happiness of others by ourselves—we make *self* the standard, and endeavor to draw down every one to its dimensions—not recollecting that the benevolence of the omnipotent has made the mind of man pliant and susceptible of happiness in almost every situation and employment. We might rather die than be the obscure slave that waits at our back,—our education and our habits, generate an ambition that makes us aspire at something loftier—and disposes us to look upon the slave as unsusceptible of

happiness in his humble sphere, when he may indeed be much happier than we are, and have his ambition too,—but his ambition is to excel all his fellow slaves in the performance of his servile duties—to please and to gratify his master—and to command the praise of all who witness his exertions. Let the *wily philanthropist*, but come and whisper into the ears of such a slave, that his situation is degrading and his lot a miserable one—let him but light up the dungeon in which he persuades the slave that he is caged—and that moment, like the serpent that entered the garden of Eden, he destroys his happiness and his usefulness. We cannot, therefore, agree with Mr. Jefferson, in the opinion that slavery makes the unfeeling tyrant and the ungrateful dependant; and in regard to Virginia especially, we are almost disposed, judging from the official returns of crimes and convictions, to assert, with a statesman who has descended to his tomb, (Mr. Giles,) “that the whole population of Virginia, consisting of three *castes*—of free white, free colored, and slave colored population, is the soundest and most moral of any other, according to numbers, in the whole world, as far as is known to me.”

3dly. *It has been contended that slavery is unfavorable to a republican spirit*: but the whole history of the world proves that this is far from being the case. In the ancient republics of Greece and Rome, where the spirit of liberty glowed with most intensity, the slaves were more numerous than the freemen. Aristotle, and the great men of antiquity, believed slavery necessary to keep alive the spirit of freedom. In Sparta, the freeman was even forbidden to perform the offices of slaves, lest he might lose the spirit of independence. In modern times, too, liberty has always been more ardently desired by slave holding communities. “Such,” says Burke, “were our Gothic ancestors; such, in our days, were the Poles; and such will be all masters of slaves who are not slaves themselves.”—“These people of the southern (American) colonies are much more strongly, and with a higher and more stubborn spirit, attached to liberty, than those of the northward.” And from the time of Burke down to the present day, the southern states have always borne this same honorable distinction. Burke says, “it is because freedom is to them not only an enjoyment, but a kind of rank and privilege.” Another, and perhaps more efficient cause of this, is the perfect spirit of equality so prevalent among the whites of all the slave holding states. Jack Cade, the Irish reformer, wished all mankind to be brought to one common level. We believe slavery, in the United States, has accomplished this, in regard to the whites, as nearly as can be expected or even desired in this world. The menial and low offices being all performed by the blacks, there is at once taken away the greatest cause of distinction and separation of the ranks of society. The man to the north will not shake hands familiarly with his servant, and converse, and laugh, and dine with him, no matter how honest and respectable he may be. But go to the south, and you will find that no



white man feels such inferiority of rank as to be unworthy of association with those around him. Color alone is here the badge of distinction, the true mark of aristocracy, and all who are white are equal in spite of the variety of occupation. The same thing is observed in the West Indies. "Of the character common to the white resident of the West Indies, it appears to me," says Edwards, "that the leading feature is an independent spirit, and a display of *conscious equality* throughout all ranks and conditions. The poorest white person seems to consider himself nearly on a level with the richest; and emboldened by this idea, approaches his employer with extended hand, and a freedom, which, in the countries of Europe, is seldom displayed by men in the lower orders of life towards their superiors." And it is this spirit of equality which is both the generator and preserver of the genuine spirit of liberty.

4thly. *Insecurity of the whites, arising from plots, insurrections, &c., among the blacks.* This is the evil, after all, let us say what we will, which really operates most powerfully upon the schemers and emancipating philanthropists of those sections where slaves constitute the principal property. Now, if we have shown, as we trust we have, that the scheme of deportation is utterly impracticable, and that emancipation, with permission to remain, will produce all these horrors in *still greater degree*, it follows that this evil of slavery, allowing it to exist in all its latitude, would be no argument for legislative action, and therefore we might well rest contented with this issue; but as we are anxious to exhibit this whole subject in its true bearings, and as we do believe that this evil has been most strangely and causelessly exaggerated, we have determined to examine it a moment, and point out its true extent. It seems to us, that those who insist most upon it, commit the enormous error of looking upon every slave in the whole slave-holding country as actuated by the most deadly enmity to the whites, and possessing all that reckless, fiendish temper, which would lead him to murder and assassinate the moment the opportunity occurs.—This is far from being true; the slave, as we have already said, generally loves the master and his family;\* and few indeed there are, who can coldly plot the murder of men, women, and children; and if they do, there are fewer still who can have the villainy to execute. We can sit down and imagine that all the negroes in the south have conspired to rise on a certain night, and murder all the whites in their respective families; we may suppose the secret to be kept, and that they have the physical power to exterminate; and yet, we say the whole is *morally impossible*. No insurrection of this kind can ever occur where the blacks are as much civilized as they are in the United States. Savages and Koromantyn slaves can commit such deeds, because their whole life and education have prepared them, and they glory in the achievement; but the

\*We scarcely know a single family, in which the slaves, especially the domestics, do not manifest the most unfeigned grief at the deaths which occur among the whites.

negro of the United States has imbibed the principles, the sentiments, and feelings of the white; in one word, he is civilized—at least, comparatively; his whole education and course of life are at war with such fell deeds. Nothing, then, but the most subtle and poisonous principles, sedulously infused into his mind, can break his allegiance, and transform him into the midnight murderer.—Any man who will attend to the history of the Southampton massacre, must at once see, that the cause of even the partial success of the insurrectionists, was the very circumstance that there was no extensive plot, and that Nat, a demented fanatic, was under the impression that heaven had enjoined him to liberate the blacks, and had made its manifestations by loud noises in the air, an eclipse, and by the greenness of the sun. It was these signs which determined *him*, and ignorance and superstition, together with implicit confidence in Nat, determined a few others, and thus the bloody work began. So fearfully and reluctantly did they proceed to the execution, that we have no doubt but that if Travis, the first attacked, could have waked whilst they were getting into his house, or could have shot down Nat or Will, the rest would have fled, and the affair would have terminated *in limine*.

We have read with great attention the history of the insurrections in St. Domingo, and have no hesitation in affirming, that to the reflecting mind, that whole history affords the most complete evidence of the difficulty and almost impossibility of succeeding in these plots, even under the most favorable circumstances. It would almost have been a *moral miracle*, if that revolution had not succeeded. The French revolution had kindled a blaze throughout the world. The society of the *Amis des Noirs*, (the friends of the blacks,) in Paris, had educated and disciplined many of the mulattoes, who were almost as numerous as the whites in the island.—The National Assembly, in its mad career, declared these mulattoes to be equal in all respects to the whites, and gave them the same privileges and immunities as the whites. During the ten years, too, immediately preceding the revolution, more than 200,000 negroes were imported into the island from Africa. It is a well known fact, that newly imported negroes, are always greatly more dangerous than those born among us; and of those importations a very large proportion consisted of Koromantyn slaves, from the Gold Coast, who have all the savage ferocity of the North American Indian.\* And lastly, the whites themselves, disunited and strangely inharmonious, would nevertheless have suppressed the insurrections, although the blacks and mulattoes were nearly *fifteen-fold* their numbers, if it had not been for the constant and too fatal interference of France. The great sin of that revolution rests

\*It was the Koromantyns who brought about the insurrection in Jamaica in 1760.—They are a very hardy race; and the Dutch, who are a calculating, money-making people, and withal the most cruel masters in the world, have generally preferred these slaves, because they might be *forced* to do most work; but the consequence of their avarice has been, that they have been more cursed with insurrections than any other people in the West Indies.



on the *National Assembly*, and should be an awful warning to every legislature to beware of too much tampering with so delicate and difficult a subject as an alteration of the fundamental relations of society.

But there is another cause which will render the success of the blacks for ever impossible in the south, as long as slavery exists. It is, that, in modern times especially, wealth and talent must ever rule over *mere* physical force. During the feudal ages, the vassals never made a settled concerted attempt to throw off the yoke of the lord or landed proprietor; and the true reason was, they had neither property nor talent, and consequently the power, under these circumstances, could be placed no where else than in the hands of the lords; but so soon as the *tiers etat* arose, with commerce and manufactures, there was something to struggle for, and the *crise des revolutions*, (the crisis of revolutions,) was the consequence. No connected, persevering, and well concerted movement, ever takes place, in modern times, unless for the sake of property. Now, the property, talent, concert, and we may add habit, are all with the whites, and render their continued superiority absolutely certain, if they are not meddled with, no matter what may be the disproportion of numbers. We look upon these insurrections in the same light that we do the murders and robberies which occur in society, and in a slave-holding state, they are a sort of substitute for the latter; the robbers and murderers in what are called free states, are generally the poor and needy, who rob for money; negro slaves rarely murder or rob for this purpose; they have no inducement to do it—the fact is, the whole capital of the south is pledged for their maintenance. The present Chief Magistrate of Virginia has informed us that he has never known of but *one single* case in Virginia where negroes murdered for the sake of money. Now, there is no doubt but that the common robberies and murders for money, take off, in the aggregate, more men, and destroy more property, than insurrections among the slaves; the former are the result of fixed causes *eternally* at work, the latter of occasional causes which are rarely, *very rarely*, in action. Accordingly, if we should look to the whole of our southern population, and compare the average number of deaths, by the hands of assassins, with the numbers elsewhere, we would be astonished to find them perhaps as few or fewer than in any other population of equal amount on the globe. In the city of London there is, upon an average, a murder or a house-breaking and robbery every night in the year, which is greater than the amount of deaths by murders, insurrections, &c., in our whole southern country; and yet the inhabitant of London walks the streets and sleeps in perfect confidence, and why should not we who are in fact in much less danger?\* These calamities

\*We wish that accurate accounts could be published of all the deaths which had occurred from insurrections in the United States, West Indies, and South America, since the establishment of slavery; and that these could be compared to the whole population that have lived since that epoch, and the number of deaths which occur in

in London, very properly give rise to the establishment of a police, and the adoption of precautionary measures; and so they should in our country, and every where else. And if the Virginia Legislature had turned its attention more to this subject during its last session, we think, with all due deference, it would have redounded much more to the advantage of the state than the intemperate discussion which was gotten up.

But it is agreed on almost all hands, that the danger of insurrection now is not very great; but a time must arrive, it is supposed by many, when the dangers will infinitely increase, and either the one or the other race must necessarily be exterminated. "I do believe," said one in the Virginia Legislature, "and such must be the judgment of every reflecting man, that unless something is done in time to obviate it, the day must arrive when scenes of inconceivable horror must inevitably occur, and one of these two races of human beings will have their throats cut by the other." Another gentleman anticipates the dark day when a negro legislature would be in session in the capital of the Old Dominion! Mr. Clay, too, seems to be full of gloomy anticipations of the future. In his colonization speech of 1830, he says, "Already the slaves may be estimated at two millions, and the free population at ten; the former being in the proportion of one to five of the latter. Their respective numbers will probably double in periods of thirty-three years. In the year 1863, the number of the whites will probably be twenty, and of the blacks four millions.—In 1896, forty and eight; and in the year 1929, about a century, eighty and sixteen millions. What mind is sufficiently extensive in its reach—what nerve sufficiently strong—to contemplate this vast and progressive augmentation, without an awful foreboding of the tremendous consequences!" If these anticipations are true, then may we, in despair, quietly sit down by the waters of Babylon, and weep over our lot, for we can never remove the blacks.—"*Hæret lateri lethalis arundo.*"

But we have none of these awful forebodings. We do not look to the time when the throats of one race must be cut by the other; on the contrary, we have no hesitation in affirming, and we think we can prove it too, that in 1929, taking Mr. Clay's own statistics, we shall be much more secure from plots and insurrections, than we are at this moment. It is an undeniable fact, that in the increase of population, the power and security of the dominant party always increase *much more* than in proportion to the relative augmentation of their numbers. One hundred men can much more easily keep an equal number in subjection than fifty, and a million would rule a million more certainly and securely than any lesser number. The dominant can only be overturned by concert and harmony among the subject party, and the greater the relative

other equal amounts of population, from popular sedition, robberies, &c., and we would be astonished to see what little cause we have for the slightest apprehension on this score.



numbers on both sides, the more impossible does this concert on the part of the subjected become. A police, too, of the same *relative* numbers, is much more efficient amid a numerous population, than a sparse one. We will illustrate by example, which cannot fail to strike even the most sceptical. Mr. Gibbon supposes that the hundredth man in any community, is as much as the people can afford to keep in pay for the purposes of a police. Now suppose the community be only one hundred, then one man alone is the police. Is it not evident that the ninety-nine will be able at any moment to destroy him, and throw off all restraint? Suppose the community one thousand, then ten will form the police, which would have a rather better chance of keeping up order among the nine hundred and ninety, than the one in the one hundred, but still this would be insufficient. Let your community swell to one million, and ten thousand would then form the police, and ten thousand troops will strike terror in any city on the face of the globe. Lord Wellington lately asserted in the British Parliament, that Paris, containing a population of a million of souls, (the most boisterous and ungovernable,) never required, before the reign of Louis Philip, more than forty-five hundred troops to keep it in the most perfect subjection. It is this very principle which explains the fact so frequently noticed, that revolutions are effected much more readily in small states than in large ones. The little republics of Greece underwent revolutions almost every month—the dominant party was never safe for a moment. The little states of modern Italy have undergone more changes and revolutions than all the rest of Europe together, and if foreign influence were withdrawn, almost every ship from Europe, even now, would bring the news of some new revolution in those states. If the standing army will remain firm to the government, a successful revolution in most large empires, as France, Germany, and Russia, is almost impossible. The two revolutions in France, have been successful, in consequence of the disaffection of the troops, who have joined the popular party.

Let us apply these principles to our own case; and for the sake of simplicity we will take a county of a mixed population of twenty thousand, viz: blacks ten thousand, and whites as many:—the patrol which they can keep out, would, according to our rule, be two hundred—double both sides, and the patrol would be four hundred, quadruple and it would be eight hundred—now a patrol of eight hundred would be much more efficient than the two hundred, though they were, relatively to the numbers kept in order, exactly the same; and the same principle is applicable to the progress of population in the whole slave-holding country. In 1929, our police will be much more efficient than now, if the two castes preserve any thing like the same relative numbers. We believe it would be better for the whites that the negro population should double, if they added only one half more to their numbers, than that they should remain stationary on both sides. Hence an insupera-

ble objection to all these deporting schemes—they cannot diminish the relative proportion of the blacks to the whites, but on the contrary increase it, while they check the augmentation of the population as a whole, and consequently lessen the security of the dominant party. We do not fear the increase of the blacks, for that very increase adds to the wealth of society, and enables it to keep up the police. This is the true secret of the security of the West Indies and Brazil. In Jamaica, the blacks are eight fold the whites; throughout the extensive empire of Brazil, they are three to one. Political prophets have been prophesying for fifty years past, that the day would speedily arrive, when all the West Indies would be in possession of the negroes; and the danger is no greater now, than it was at the commencement. We sincerely believe the blacks never will get possession, unless through the mad interference of the mother countries, and *even* then we are doubtful whether they can conquer the whites. Now, we have nowhere in the United States, the immense disproportion between the two races observed in Brazil and the West Indies, and we are not like to have it in all time to come. We have no data, therefore, upon which to anticipate that dreadful crisis, which so torments the imagination of some. The little islands of the West Indies, if such crisis were fated frequently to arrive, ought to exhibit one continued series of massacres and insurrections; for their blacks are relatively, much more numerous than with us, and a small extent of territory is, upon the principle just explained, much more favorable to successful revolution than a large one. Are we not then, most unphilosophically and needlessly tormenting ourselves with the idea of *insurrection*. Seeing that the West India Islands, even, so much worse off than ourselves in this particular, are nevertheless, but rarely disturbed. It is well known that where the range is sufficiently extensive, and the elements sufficiently numerous, the *calculation of chances* may be reduced to almost a mathematical certainty; thus, although you cannot say what will be the profit or loss of a particular gambling house in Paris on any one night, yet you may, with great accuracy, calculate upon the profits for a whole year, and with still greater accuracy, for any longer period, as ten, twenty, or one hundred years. Upon the same principle, we speculate with much greater certainty upon masses of individuals, than upon single persons. Hence bills of mortality, registers of births, marriages, crimes, &c., become very important statistics, when calculated upon large masses of population, although they prove nothing in families or among individuals. Proceeding upon this principle, we cannot fail to derive the greatest consolation from the fact, that although slavery has existed in our country for the last *two hundred years*, there have been but three attempts at insurrection—one in Virginia, one in South Carolina, and, we believe, one in Louisiana—and the loss of lives from this cause has not amounted to *one hundred persons, in all*. We may then calculate in the next two hundred years, upon a similar result, which is



incomparably smaller than the number which will be taken off in free states by murders for the sake of money.

But our population returns have been looked to, and it has been affirmed that they show a steady increase of blacks, which will finally carry them in all proportion beyond the whites, and that this will be particularly the case in Eastern Virginia. We have no fears on this score either: even if it were true, the danger would not be very great. With the increase of the blacks, we can afford to enlarge the police; and we will venture to say, that with the hundredth man at our disposal, and faithful to us, we would keep down insurrection in any large country on the face of the globe. But the speakers in the Virginia Legislature, in our humble opinion, made most unwarrantable inferences from the census returns. They took a period between 1790 and 1830, and judged exclusively from the aggregate results of that whole time. Mr. Brown pointed out their fallacy, and showed that there was but a small portion of the period in which the blacks had rapidly gained upon the whites, but during the residue they were most rapidly losing their high relative increase, and would, perhaps, in 1840, exhibit an augmentation less than the whites. But let us go a little back—in 1740, the slaves in South Carolina, says Marshall, were three times the whites, the danger from them was greater then than it ever has been since, or ever will be again. There was an insurrection in that year, which was put down with the utmost ease, although instigated and aided by the Spaniards. The slaves in Virginia, at the same period, were much more numerous than the whites. Now suppose some of those *peepers* into futurity could have been present, would they not have predicted the speedy arrival of the time when the blacks, running ahead of the whites in numbers, would have destroyed their security? In 1763, the black population of Virginia was 100,000, and the white 70,000. In South Carolina, the blacks were 90,000, and the whites 40,000. Comparing these with the returns of 1740, our prophets, could they have lived so long, might have found some consolation in the greater relative increase of the whites. Again, when we see in 1830, that the blacks in both states have fallen in numbers below the whites, our prophets, were they alive, might truly be pronounced *false*. (See *Holmes's Annals*, and *Marshall's Life of Washington*, on this subject.)

But we will now proceed to examine more closely, the melancholy inference which has been drawn from the relative advances of the white and black populations in Virginia, during the last forty years, and to show upon principles of an undeniable character, that it is wholly gratuitous, without any well founded data from which to deduce it. During the whole period of forty years, Virginia has been pouring forth emigrants more rapidly to the west than any other state in the union; she has indeed been "the fruitful mother of empires." This emigration has been caused by the cheap fertile and unoccupied lands of the west, and by the op-

pressive action of the Federal Government, on the southern agricultural states. This emigration has operated most injuriously upon Virginia interests, and has had a powerful tendency to check the increase of the whites, without producing any thing like an equal effect on the blacks. As this is a subject of very great importance, we shall endeavor briefly to explain it. We have already said in the progress of this discussion, that the emigration of a class of society, will not injure the community, or check materially the increase of population, where a full *equivalent* is left in the stead of the emigrant. The largest portion of slaves sent out of Virginia, is sent through the operation of our internal slave trade; a full equivalent being thus left in the place of the slave, this emigration becomes an advantage to the state, and does not check the black population as much as at first view we should imagine, because it furnishes every inducement to the master to attend to his negroes, to encourage building, and to cause the greatest possible number to be raised, and thus it affords a powerful stimulus to the *spring* of black population, which in a great measure counteracts the emigration. But when we come to examine into the efflux of the white population from our state to the west, we find a totally different case presented to our view. The emigration of the white man not only takes a laborer from the state, but capital likewise; so far, therefore, in this case, from the state gaining an equivalent for the emigrant, she not only loses him, but his *capital* also, and thus she is impoverished, or at least advances more slowly in the acquisition of wealth from a double cause—from the loss of both persons and capital.

Let us examine a little more fully, the whole extent of the loss which the state thus suffers, and we shall find it immeasurably beyond our hasty conceptions. In the first place, we cannot properly estimate the loss of *labor* by the number of emigrants, for we must recollect that the great majority of emigrants from among the whites, consists of males, who form decidedly the more productive sex; and these males are generally between eighteen and thirty, precisely that period of life, at which the laborer is most productive, and has ceased to be a mere consumer. Up to this period, we are generally an expense to those who rear us, and when we leave the state at this time, it loses not only the individuals, but all the capital, together with interest on that capital, which have been spent in rearing and educating. Thus, a father, perhaps, has been for years spending the whole profits of his estate in educating his sons, and so soon as that education is completed, they roam off to the west. The society of Virginia then loses both the individuals and the capital which had been spent upon them, without an equivalent. Perhaps a young man, thus educated, if he were to remain among us, could make by the exercise of his talents, two or three thousand dollars per annum. This is more than ten field laborers could make by their labor, and consequently, the loss of one such man as above described, is equal to the loss of ten common labo-



ers in a politico-economical view, and perhaps to more than one hundred in a moral point of view. We have made some exertion to ascertain the average annual emigration of whites from the state, but without success; supposing the number to be three thousand, and we have no doubt that it is far less than the true amount, we would err but little in saying that these three thousand would be at least equal to twelve thousand taken from among *mere laborers*.

Now what is the effect of this great abstraction from Virginia, of productive citizens and capital? Why, most assuredly, to prevent the accumulation of wealth, and the increase of white population. You will find, on examination, that this emigration robs the land of its fair proportion of capital and labor, and thus injures our agriculture, and entirely prevents all improvement of our lands; it sweeps off from the state the circulating capital as soon as formed, and leaves scarcely any thing of value behind, but *lands, negroes, and houses*. All this has a tendency to check the increase of the whites, not only by the direct lessening of the population by emigration, but much more by paralyzing the spring of white population. The increase of the blacks, under these circumstances, becomes much more rapid, and has served in part to counteract the deleterious effects springing from the emigration of whites. In this point of view, the augmentation of our black population should be a source of consolation, instead of alarm and despondency. Let us now see whether this state of things is forever to be continued, or whether there be not some cheering signs in the political horizon, portending a better and a brighter day for the Old Dominion, in the *vista* of the future. There are two causes evidently calculated to check this emigration of capital and citizens from Virginia, and to insure a more rapid increase of her white population, and augmentation of her wealth. These are, first, the filling up of our vacant territory with population; and second, the completion of such a system of internal improvement in Virginia, as will administer to the multiplied wants of her people, and take off the surplus produce of the interior of the state to the great market of the world—the first dependent on *time*, and the second on the energy and enterprise of the state.

1st. It is very evident, that as population advances and overflows our western territory, all the good lands will be gradually occupied; a longer and a longer barrier of cultivated and populous region will be interposed between Virginia and cheap western lands, and with this onward march of population and civilization, emigration from the old states must gradually cease. The whole population of the union is now 13,000,000; in less than fifty years from this time, (a short period in the history of nations,) we shall have 50,000,000 of souls—our people will then cease to be migratory, and assume that stability every where witnessed in the older countries of the world; and this result will be greatly accelerated, if the southern country shall, in the meantime, be relieved from

the blighting oppression of federal exactions. As this state of things arrives, the whites in Virginia will be found to increase more rapidly than the blacks; and thus, that most alarming inference drawn from disproportionate increase of the two castes, for the last forty years, will be shewn in the lapse of time, to be a false vision, engendered by *fear*, and unsupported by *philosophy* and *fact*.—We already perceive that the whites, in the ratio of their increase, have been, for the last twenty years, gradually gaining on the blacks; thus, in 1790, east of the Blue Ridge, the whites were 314,523, and the slaves 277,449—in 1830, the proportions were, in the same district, whites 375,935, slaves 416,529; gain of the blacks on the whites, 77,398. “But when did this gain take place? Between 1800 and 1810, the rate of increase of the whites was only seven-tenths of one per cent., while that of the slaves was eleven per cent. From 1810 to 1820, the ratio of the increase of whites was three per cent., and that of slaves was six per cent.—From 1820 to 1830, the ratio of increase of the whites was near eight per cent., and that of the slaves not quite nine per cent.,” and when we take into consideration the whole population of our state, east and west of the Blue Ridge, we find that the whites have been gaining at the rate of 15 per cent. for the last ten years, while the slaves have been increasing at the rate of ten per cent. only—and thus is it we find that those very statistics which are adduced by the abolitionists, to alarm the timid, and operate on the imagination of the unreflecting, turn out, upon closer scrutiny, to be of the most cheering and consolatory character, clearly demonstrating, upon the very principle of calculation assumed by the abolitionists themselves, that the condition of the whites is rapidly altering for the better, with the lapse of time.

We will now proceed to point out the operation of the second cause, above mentioned—a judicious system of *internal improvement* in checking emigration to the west. It is well known, that in proportion to the facilities which are offered to commerce, and the ease and cheapness with which the products of land may be conveyed to market, so do the profits of agriculture rise, and with them, a general prosperity is diffused over the whole country—new products are raised upon the soil—new occupations spring up—old ones are enlarged and rendered more productive—a wider field is opened for the display of the energies of both mind and body, and the rising generation are bound down to the scenes of their infancy, and the homes of their fathers: not by the tie of affection and association alone, but by the still stronger ligament of *interest*.—Sons who have spent in their education all the profits which a kind father has earned by hard industry on the soil, will not now be disposed to wring from his kindness the small patrimony which he may possess, and move off with the proceeds to the west; but general prosperity will induce them to remain in the land which gave them birth, to add to the wealth and the population of the state, and to be a comfort and a solace to their aged parents in the de-



cline of their days. We do indeed consider internal improvement in Virginia, the great *panacea*, by which most of the ills which now weigh down the state may be removed, and health and activity communicated to every department of industry.

We are happy to see that the Legislature of Virginia, during the last session, incorporated a company to complete the James river and Kanawha improvements, and that the city of Richmond has so liberally contributed by her subscriptions, as to render the project almost certain of success. It is this great improvement which is destined to revolutionize the financial condition of the Old Dominion, and speed her on more rapidly in wealth and numbers, than she has ever advanced before: the snail pace at which she has hitherto been crawling, is destined to be converted into the giant's stride, and this very circumstance, of itself, will defeat all the gloomy predictions about the blacks. The first effect of the improvement will be to raise up larger towns in the eastern portion of the state.\* Besides other manifold advantages which these towns will diffuse, they will have a tendency to draw into them the capital and free laborers of the north, and in this way to destroy the proportion of the blacks. Baltimore is now an exemplification of this fact, which by its mighty agency is fast making Maryland a non-slave-holding state. Again, the rise of cities in the lower part of Virginia, and increased density of population, will render the division of labor more complete, break down the large farms into small ones, and substitute, in a great measure, the garden for the plantation cultivation: consequently, less slave and more free labor will be requisite, and in due time the abolitionists will find this most lucrative system working to their heart's content, increasing the prosperity of Virginia, and diminishing the evils of slavery, without those impoverishing effects which all other schemes must necessarily have.

Upon the west *particularly*, the beneficial effects of a judicious system of improvement, will be almost incalculable. At this moment the emigration from the western and middle counties of Virginia, is almost as great as from the eastern. The western portion of Virginia, in consequence of its great distance from market, and the wretched condition of the various communications leading through the state, is necessarily a grazing country. A grazing country requires but a very sparse population, and consequently, but small additions to our western population renders it redundant, and there is an immediate tendency in the supernumeraries to

\* Doct. Cooper of Columbia, whose capacious mind has explored every department of knowledge, and whose ample experience through a long life, has furnished him with the most luminous illustrations and facts; has most admirably pointed out in the 25th chapter of his Political Economy, the great advantages of large towns, and we have no doubt but that the absence of large towns in Virginia, has been one cause of the inferiority of Virginia, to some of the northern states, in energy and industry. We are sorry that our limits will not allow us to insert a portion of the chapter on the advantages of large towns, just referred to, and that we must content ourselves with a warm recommendation of its perusal.

emigration. A gentleman from the west, lately informed us that in his immediate neighborhood, he knew of seventy persons who had moved off and many others were exceedingly anxious to go, but were detained because they could not dispose of their lands. The remedy for all this, is as glaring as the light of midday sun. Give to this portion of the state, the communications which they require. Let our great central improvement be completed, and immediately the grazing system will be converted into the grain growing, and the very first effect of sticking the plough into the soil, which has hitherto grown grass alone, will be an increased demand for labor, which will at once check the tide of emigration, so rapidly flowing on to the distant west—and agricultural profits will rise at once 50 or 100 per cent. One of the most closely observant citizens of the west, has informed us, that he can most conclusively show, that if flour would command \$ 3 00 a barrel on the farms in his neighborhood, the profits of raising grain would be double those of the grazing system. Here, then, is the *true ground for unity of action*, between the eastern and western portions of Virginia: let them steadily unite in pushing forward a vigorous system of internal improvement. Under what a miserably short sighted and suicidal policy must the west act then, if it seriously urges the emancipation of our slaves. The very first effect of it will be, to stop forever, the great central improvement. Where is the state to get the money from, to cut canals and rail roads through her territory, and send out thousands besides to Africa? The very agitation of this most romantic and impracticable scheme, is calculated to *nip in the bud*, our whole system of internal improvements; and we can but hope that the intelligence of the west, will soon discover how very hostile this whole abolition scheme is to all its true interests, and will curb in their wild career, by the right of instruction, those who would uproot the very foundations of society, if their schemes should ever be carried out to their full extent. We venture to predict, that, if these abolition schemes shall ever be seriously studied in Virginia, that there will be but one voice—but one opinion concerning them, throughout the state,—that they are at war with the true interests of Virginia, in every quarter—in the west as well as the east. We hope then most sincerely, that those gentlemen who have been so perseveringly engaged in urging forward this great scheme of improvement, will not falter until the work is accomplished. We are well convinced that they are the true benefactors of the state—and they deserve well of the Republic—and at some day not very distant, they will have the consolation of seeing that the moral effects of this system, will be no less salutary than the physical. We hope, then, we have shewn, upon principles which cannot be controverted, that the experience of the last forty years in Virginia, need not fill us with apprehensions for the future. Time and internal improvement will cure all our ills, and speed on the Old Dominion more rapidly in wealth and prosperity.



Many are most willing to allow the force of the preceding reasoning, and to admit that there is no real danger to be apprehended either now, or in future, from our blacks; and yet, they say there is a feeling of insecurity throughout the slave-holding country, and this sense of insecurity destroys our happiness. Now, we are most willing to admit that, after such an insurrection as that in Southampton, the public mind will be disturbed, and alarm and apprehension, will pervade the community. But the fact proves that all this is of short, *very short* duration. We believe that there was not a single citizen in Virginia, who felt any alarm from the negroes, previous to the Southampton tragedy, and we believe at this moment there are very few who feel the slightest apprehension. We have no doubt, paradoxical as it may seem to some, but that the population of our slave-holding country, enjoys as much, or more conscious security, than any other people on the face of the globe! You will find throughout the whole slave-holding portion of Virginia, and we believe it is the same in the southern states generally, that the houses are scarcely ever fastened at night, so as to be completely inaccessible to those without, except in towns. This simple fact, is *demonstration complete*, of the conscious security of our citizens, and their great confidence in the fidelity of the blacks. There is no *bas peuple*, no *lower class*, on the globe, among whom the life of man is so secure as among the slaves of America, for they rarely murder, as we have already seen, for the sake of money. A negro will rob your *hen roost* or your *stye*, but it is rare indeed, that he can ever be induced to murder you. Upon this subject we speak from experience. We have sojourned in some of the best regulated countries of Europe, and we know that every where the man of property dares not close his eyes before every window and door are barred against intruders from without. And we believe, even in our northern states, these precautions are adopted to a much greater extent, than with us; and consequently, mark a much greater sense of insecurity than exists among us.

5thly, and lastly. *Slave labor is unproductive, and the distressed condition of Virginia and the whole south is owing to this cause.* Our limits will not allow us to investigate fully this assertion, but a very partial analysis will enable us to show that the truth of the general proposition upon which the conclusion is based, depends on circumstances, and that those circumstances do not apply to our southern country. The ground assumed by Smith and Storch, who are the most able supporters of the doctrine of the superior productiveness of free labor, is that each one is actuated by a desire to accumulate when free, and this desire produces much more efficient and constant exertions than can possibly be expected from the feeble operation of fear upon the slave. We are, in the main, converts to this doctrine, but must be permitted to limit it by some considerations. It is very evident, when we look to the various countries in which there is free labor

alone, that a vast difference in its productiveness is manifested. The English operative we are disposed to consider the most productive laborer in the world, and the Irish laborer, in his immediate neighborhood, is not more than equal to the southern slave—the Spanish and even Italian laborers are inferior. Now, how are we to account for this great difference? It will be found *mainly* to depend upon the operation of two great principles, and *secondarily* upon attendant circumstances. These two principles are the desire to accumulate and better our condition, and a desire to indulge in idleness and inactivity.

We have already seen that the principle of idleness triumphed over the desire for accumulation among the savages of North and South America, among the African nations, among the blacks of St. Domingo, &c., and nothing but the strong arm of authority could overcome its operation. In southern countries, idleness is very apt to predominate, even under the most favorable circumstances, over the desire to accumulate, and slave labor, consequently, in such countries, is most productive. Again, staple-growing states are, *ceteris paribus*, more favorable to slave labor than manufacturing states. Slaves in such countries may be worked in bodies under the eye of a superintendent, and made to perform more labor than freemen. There is no instance of the successful cultivation of the sugar cane by free labor. St. Domingo, once the greatest sugar-growing island in the world, makes now scarcely enough for her own supply. We very much doubt even whether slave labor be not best for all southern agricultural countries. Humboldt, in his New Spain, says he doubts whether there be a plant on the globe so productive as the banana, and yet these banana districts, strange to tell, are the poorest and most miserable in all South America, because the people only labor a little to support themselves, and spend the rest of their time in idleness. There is no doubt but slave labor would be the most productive kind in these districts. We doubt whether the extreme south of the United States, and the West India islands, would ever have been cultivated to the same degree of perfection as now, by any other than slave labor. The history of colonization furnishes no example whatever, of the transplantation of whites to very warm or tropical latitudes, without signal deterioration of character, attended with an unconquerable aversion to labor. And it would seem that nothing but slavery can remedy this *otherwise* inevitable tendency. The fact, that to the north, negro slavery has every where disappeared, whilst to the south, it has maintained its ground triumphantly against free labor, is of itself conclusive of the superior productiveness of slave labor in southern latitudes. We believe that Virginia and Maryland are too far north for slave labor, but all the states to the south of these are perhaps better adapted to slave labor than free.

But it is said, with the increasing density of population, free labor becomes cheaper than slave, and finally extinguishes it, as



has actually happened in the West of Europe; this we are ready to admit, but think it was owing to a change in the tillage, and the rise of manufactures and commerce, to which free labor alone is adapted. As a proof of this, we can cite the populous empire of China, and the eastern nations generally, where slave labor has stood its ground against free labor, although the population is denser, and the proportional means of subsistence more scanty than any where else on the face of the globe. How is this to be accounted for, let us ask? Does it not prove, that under some circumstances, slave labor is as productive as free? We would as soon look to China to test this principle, as any other nation on earth. The slave districts in China, according to the report of travelers, are determined by latitude and agricultural products. The wheat growing districts have no slaves, but the *rice*, *cotton*, and *sugar* growing districts situated in warm climates, have all of them slaves, affording a perfect exemplification of the remarks above made. Again, looking to the nations of antiquity, if the Scriptural accounts are to be relied on, the number of inhabitants in Palestine must have been more than 6,000,000; at which rate, Palestine was at least, when taking into consideration her limited territory, five times as populous as England.\* Now we know that the tribes of Judah and Israel both used slave labor, and it must have been exceedingly productive, for we find the two Kings of Judah and Israel bringing into the field no less than 1,200,000 chosen men;† and Jehosaphat, the son of Asa, had an army consisting of 1,160,000;‡ and what a prodigious force must he have commanded, had he been sovereign of all the tribes! Nothing but the most productive labor could ever have supported the immense armies which were then led into the field.

Wallace thinks that ancient Egypt must have been thrice as populous as England; and yet so valuable was slave labor, that ten of the most dreadful plagues that ever affected mankind, could not dispose the selfish heart of Pharaoh to part with his Israelitish slaves; and when he lost them, Egypt sunk, never to rise to her pristine grandeur again. Ancient Italy too, not to mention Greece, was exceedingly populous, and perhaps Rome was a larger city than any of modern times—and yet slave labor supported these dense populations, and even rooted out free labor. All these examples prove sufficiently, that under certain circumstances, slave is as productive, and even more productive, than free labor.

But the southern states, and particularly Virginia, have been compared with the non-slave-holding states, and pronounced far behind them in the general increase of wealth and population; and this, it is said, is a decisive proof of the inferiority of slave labor in this country. We are sorry we have not the space for a thorough investigation of this assertion, but we have no doubt of

\* See Wallace on the Numbers of Mankind, p. 52, Edinb. Edit.

† 2 Chron. xiii. 3.

‡ 2 Chron. xvii.

its fallacy. Look to the progress of the colonies before the establishment of the federal government, and you find the slave-holding were the most prosperous and the most wealthy. The north dreaded the formation of the confederated government, *precisely* because of its *poverty*. This is an historic fact. It stood to the south, as Scotland did to England at the period of the Union; and feared lest the south, by its superior wealth, supported by this very *slave labor*, which, all of a *sudden*, has become so unproductive, should abstract the little wealth which it possessed. Again, look to the exports at the present time of the whole confederacy, and what do we see—why, that one-third of the states, and those *slave-holding* too, furnish two-thirds of the whole exports!! But although this is now the case, we are still not prosperous. Let us ask then two simple questions; 1st. How came the south, for two hundred years, to prosper with her slave labor, if so very unproductive and ruinous? and 2dly. How does it happen, that her exports are so great even now, and that her prosperity is nevertheless on the decline? Painful as the accusation may be to the heart of the true patriot, we are forced to assert that the unequal operation of the federal government has principally achieved it. The north has found that it could not compete with the south in agriculture, and has had recourse to the system of duties, for the purpose of raising up the business of manufactures. This is a business in which the slave labor cannot compete with northern, and in order to carry this system through, a coalition has been formed with the west, by which a large portion of the federal funds are to be spent in that quarter for internal improvements. These duties act as a discouragement to southern industry, which furnishes the exports by which the imports are purchased, and a bounty to northern labor, and the partial disbursements of the funds increase the pressure on the south to a still greater degree. It is not slave labor then which has produced our depression, but it is the action of the federal government which is ruining slave labor.

There is at this moment an exemplification of the destructive influence of government agency in the West Indies. The British West India Islands are now in a more depressed condition than any others, and both the Edinburgh and London Quarterly Reviews charge their depression upon the regulations, taxing sugar, coffee, &c., and preventing them, at the same time, from purchasing bread stuffs, &c. from the United States, which can be furnished by them cheaper than from any other quarter. Some of the philanthropists of Great Britain cry out it is slavery which has done it, and the slaves must be liberated; but they are at once refuted by the fact, that never has island flourished more rapidly than Cuba, in their immediate neighborhood. And Cuba flourishes because she enjoys free trade, and has procured of late plenty of slaves. It is curious that the population of this island has, for the last thirty years, kept pace with that of Pennsylvania, one of the most flourishing



of the states of the confederacy, and her wealth has increased in a still greater ratio.\* Look again to Brazil, perhaps, at this moment, the most prosperous state of South America, and we find her slaves three times more numerous than the freemen. Mr. Brougham, in his *Colonial Policy*, says that Cayenne never flourished as long as she was scantily supplied with slaves, but her prosperity commenced the moment she was supplied with an abundance of this *unproductive* labor. Now we must earnestly ask an explanation of these phenomena, upon the principle that slave labor is unproductive.

There are other causes too, which have operated in concert with the federal government, to depress the south. The climate is unhealthy, and upon an average, perhaps one-tenth of the labor is suspended during the sickly months. There is a great deal of travelling too, from this cause, to the north, which abstracts the capital from the south, and spreads it over the north. The emigration from the south to the west, as we have before seen, is very great and very injurious; and added to all this, the *standard of comfort* is much higher in the slave holding than the non-slave-holding states.† All these circumstances together, are surely sufficient to account for the depressed condition of the south, without asserting that slave labor is valueless. But we believe all other causes as “dust in the balance,” when compared with the operation of the federal government.

How does it happen that Louisiana, with a greater proportional number of slaves than any other state in the Union, with the most insalubrious climate, with one-fourth of her white population spread over the more northern states in the sickly season, and with a higher *standard of comfort* than perhaps any other state in the Union, is nevertheless one of the most rapidly flourishing in the whole southern country? The true answer is, she has been so fortunately situated as to be able to reap the fruits of federal protection. “Midas’s wand” has touched her, and she has reaped the golden harvest. There is no complaint there of the unproductiveness of slave labor.

\*See some interesting statistics concerning this island in Mr. Poinsett’s Notes on Mexico.

† In the Virginia debate, it was said that the slow progress of the Virginia population was a most unerring symptom of her want of prosperity, and the inefficacy of slave labor. Now we protest against this criterion, unless very cautiously applied. Ireland suffers more from want and famine than any other country in Europe, and yet her population advances almost as rapidly as ours, and it is this very increase which curses the country with the plague of famine. In the Highlands of Scotland, they have a very sparse population, scarcely increasing at all; and yet they are much better fed, clothed, &c. than in Ireland. Malthus has proved, that there are two species of checks which repress redundant populations—*positive* and *preventive*. It is the latter which keeps down the Scotch population; while the former, always accompanied with misery, keeps down the Irish. We believe at this time the preventive checks are in full operation in Virginia. The people of that state live much better than the same classes to the north, and they will not get married unless there is a prospect of maintaining their families in the same style they have been accustomed to live in. We believe the preventive checks may commence their operation too soon for the wealth of a state, but they always mark a high degree of civilization—so that the slow progress of population in Virginia turns out to be her highest eulogy.

But it is time to bring this long article to a close; it is upon a subject which we have most reluctantly discussed; but, as we have already said, the example was set from a higher quarter; the seal has been broken, and we therefore determined to enter fully into the discussion. If our positions be true, and it does seem to us they may be sustained by reasoning almost as conclusive as the demonstration of the mathematician, it follows, that the time for emancipation has not yet arrived, and perhaps it never will. We hope sincerely, that the intelligent sons of Virginia will ponder well before they move—before they enter into a scheme which will destroy more than half Virginia's wealth, and drag her down from her proud and elevated station among the mean things of the earth,—and when, Sampson like, she shall by this ruinous scheme, be shorn of all her power, and all her glory, the passing stranger may at some future day exclaim,

"The Niobe of Nations; there she stands  
"Friendless and helpless in her voiceless woe."

Once more then, do we call upon our statesmen to pause, 'ere they engage in this ruinous scheme. The power of man has limits, and he should never attempt impossibilities. We do believe, it is beyond the power of man to separate the elements of our population, even, if it were desirable. The deep and solid foundations of society, cannot be broken up by the vain *fiat* of the legislator. We must recollect, that the *laws* of Lycurgus were promulgated, the sublime eloquence of Demosthenes and Cicero was heard, and the glorious achievements of Epaminondas and Scipio were witnessed in countries, where slavery existed—without for *one moment* loosening the tie between master and slave. We must recollect, too, that Poland has been desolated; that Kosciusko, Sobieski, Scrynecki, have fought and bled for the cause of liberty in that country—that one of her monarchs annulled, *in words*, the tie between master and slave; and yet, the *order of nature*, has in the end vindicated itself; and the dependence between master and slave, has scarcely for a moment ceased. We must recollect, in fine, that our own country has waded through two dangerous wars—that the thrilling eloquence of the Demosthenes of our land has been heard with rapture, exhorting to death, rather than slavery—that the most liberal principles, have ever been promulged and sustained, in our deliberative bodies, and before our judicial tribunals—and the whole has passed by, without breaking or tearing asunder the elements of our social fabric. Let us reflect on these things, and learn wisdom from experience; and know, that the relations of society, generated by the *lapse of ages*, cannot be altered in a day.



## APPENDIX.

---

The following extracts from a letter received from a gentleman, in answer to some queries which we lately propounded to him in conversation, have reached us too late to take advantage of them in the body of the Review. As, however, they corroborate some of the most important views taken in the Review, and proceed from the pen of a gentleman of great intelligence and patriotism, and one who perhaps understands the various sectional interests of our state better than any other individual, we cannot refrain from the publication of them in an Appendix; and hope the author, to whom we have been so frequently indebted for statistical information, will pardon the liberty which we take.

"In relation to our conversation concerning the culture of the upper country, I can only speak of the south-west, as I am best acquainted with that part—yet, I believe it applies to every portion of it, from Augusta to Tennessee—certainly in the region of the Alleghany.

"Land, in those counties on the Alleghany mountains, and beyond it, are low in price, resulting from the fact, that few of the products of the soil will sell in the market, for a much higher price than will pay for their transportation, which is high, owing to the distance, the wagon alone being used, and on very bad roads, which in the winter and towards spring are nearly impassible.

"From these circumstances, you will perceive the impossibility of the inhabitants of that district sending to market any thing but beef, mutton or pork, which has caused all who have suitable lands, to turn them into grass farms to obtain any revenue.

"This mode of culture requires a large capital in land, and extensive pastures to obtain a comfortable income, and can only be increased by extending the farm.

"The profit per acre, of this mode of farming is small; it may I think, with due regard to the seasons, be estimated at two or three dollars! The process is simple, and requires no labor of consequence after the grounds are well laid down in grass. The ox is purchased poor, and fed, generally, from September of the preceding year until November of the next year, when he is sold for a profit of ten or fifteen dollars, though, if he is of a large size, with a form adapted to rapid improvement in taking on fat, he may command a higher price. Land in that part of the state will be found differing as widely in its ability to produce grass, as almost any where else, but it may be considered safe to allow five acres to the ox; if the pasture is new, I think there is no doubt, this is not more than sufficient.

"The advantage of grass farming is, that it requires no labor—when the stock is purchased and put upon the pasture, two or

three men can readily attend to several hundred, if sold in November, but if reserved for market in January or February then a few laborers will be required to raise corn (maize) to feed them during the winter months, which is given in aid of good hay. None can pursue this business with any hope of success, unless he has large possessions in land.

"Were a conveyance to market practicable of the usual products of the soil, as wheat, barley, potatoes, rye, &c., the grass farm would soon be divided into several farms for the growing of wheat, which is much more profitable.

"The five acres of pasture allowed the ox, if cultivated in wheat, would certainly produce fifty bushels, which would be fully sufficient to manufacture ten barrels of flour, worth at least forty dollars! whereas, the beef produced from the same ground, would only bring from ten to fifteen, at most twenty dollars.

"By this last mode of farming, more labor is necessary, and less land. Consequently the farmer who can afford to pay the transportation to market of wheat or flour, is ready and very willing to purchase slaves to produce the crop—the farm being confined to a few acres comparatively speaking.

"In those districts near the James River, a family can live in great abundance, and increase their wealth upon an hundred acres of ground from the sale of flour, but in the grass region, such a family could not by every industry, do very little more than subsist comfortably; wherefore, they are compelled to sell their farm to the next grass farmer and move to the great west—his little farm when annexed to the great territory of his neighbor, is lost to the country, and cattle thenceforth take the place of people.

"It is quite common in that district to hear the owners of such farms remark, that 'they wish to sell, because they cannot by hard labor make any thing but a subsistence, since they cannot sell any wheat or grain, and their land is not sufficient to fatten stock for market—that land in the west is cheap and the soil very rich, and if he has to work to subsist his family, it would be a gain to labor where his land would double his crop from its superior richness of soil.'

"You ask me also, in relation to the honesty of slaves—all I know of them is, as I find them in the west. The people as I have shown you in that part of the state, have but very few, not that they have prejudices against them, but because they have no employment for them—if roads, or rail-roads were constructed so as to allow the transportation of flour at a profit, I doubt not there would soon be many there. Such as have slaves, find no difficulty with them, they soon acquire the habits of the laborers of the country, and do not often feel in any other station than that of the laborer on the farm, with all the comforts which fall to the lot of the poor, and which he is capable of enjoying, with as much time at his disposal as any industrious white man who has to perform the same work.



"Brought up in this way, they learn to think and take an interest in what is going on, and will always give a good reason for every operation on the farm—he is generally honest, strictly so in every thing of importance—a thief or pilferer, in a neighborhood, is soon as well known to the white people as to the slaves, and is as much contemned by the latter as the former. I have rarely ever known or heard of negroes stealing any thing but poultry, or some little finery appertaining to dress, of which they are as fond as a buck in Broadway. Money the slave seldom touches, as there is something precious about that in their eyes—and he who would steal a dozen chickens from his master and sell them for a dollar at the next village, would often bring a dollar to his master if he were to find it where it had been lost.

"I recollect not one instance, nor have I ever heard of a slave's committing murder for money—murders they have sometimes perpetrated it is very true, but I think generally in the heat of passion, or acting under a sense of deep injury or an accumulated load of personal wrongs. If the slave think his master a just and good man, *satisfied* with what is considered a day's work, he is always ready to pay the forfeit for any violation of orders; this discipline is hardly ever necessary. I have known men fifty years old, who never received a blow in their lives, and through the whole of that time was their masters good friend. In speaking of their murders, I must not forget to say, that when Mr. Lewis of Prince George county was murdered by his slaves, it was thought by many, that the deed was committed for his money, (many without doubt still think so,) the money was taken from his desk before the house was set on fire—Yet, there was in my mind something which compelled me to think the horrid act was committed, that, by the aid of money they might be able to find their way to the north, for it was about that time these incendiary publications were industriously circulated amongst us.

"I have written you a long letter, which you will easily perceive has been hastily sketched, though I feel assured, based upon facts and observations which will stand the test of scrutiny, and cannot by any effort be found deficient, or defective."

21

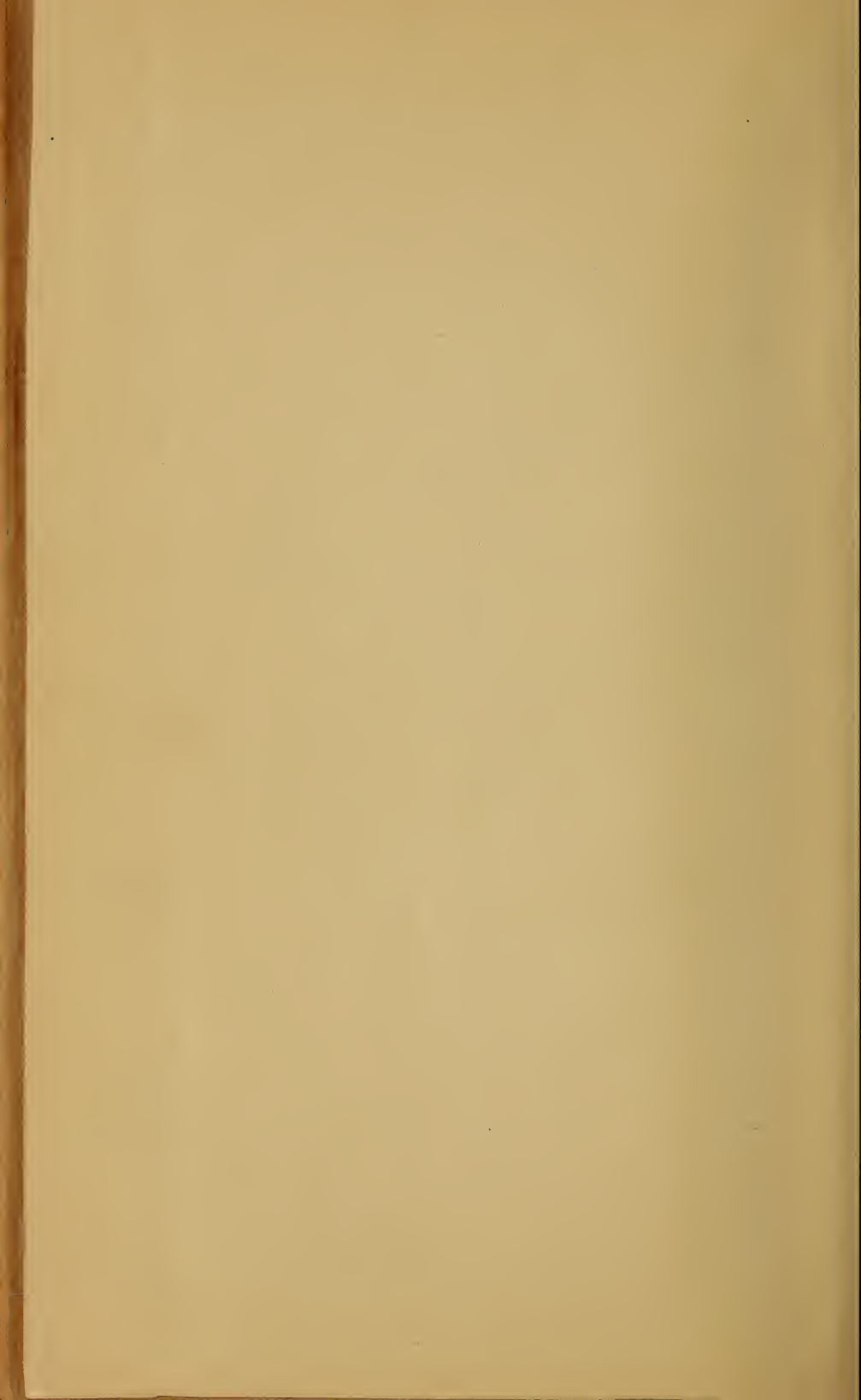
2277

0 84

6097



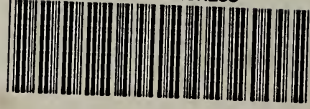








LIBRARY OF CONGRESS



0 003 863 115 9